

Anthony L. Montone,  
Nicole H. Montone

04-MC-6005T

v.

1. INTERNAL REVENUE SERVICE,
2. Mr. D.L. Parizek
3. Ms. Deborah J. Prutzman
4. N.Y.S. DEPT. OF TAXATION AND FINANCE,
5. N.Y.S. Assessment Receivables
6. Sean O'Connor

**VERIFIED DECLARATION OF FINDINGS OF FACTS AND CONCLUSIONS AT LAW  
AND JUDGMENT BY NATURAL CONSEQUENCE OF DEFAULT**

Anthony L. Montone and Nicole H. Montone, Sui Juris, (recognized as one by Our  
Creator through Holy Marriage), about our own business and competent to testify with  
first hand knowledge herein claims at law default judgment for want of a plea based  
upon:

Having sent sixteen (16) Certified, notarized letters for revelation of jurisdiction/  
venue/authority, as shown upon the records filed in this proceeding (Verified copies of  
originals **EXHIBIT A,B,C,D,E,F,G and H**) and having not received relevant replies,  
therefore intentionally defaulting by **neglect or refusal of ministerial duty** to reveal a  
source of jurisdiction/venue/authority/duty and therefore judgment falling as a natural  
consequence at law for want of a plea,

And knowing the US Attorneys Manual states on criminal jurisdiction that there must be  
a nexus tied to unlawful use of interstate commerce, federal insurance, foreign affairs, or  
mail, if the crime is not committed upon federal ceded soil,

And having never been appraised of any such nexus, nor have any **verified filings or  
affidavits** showing any civil or criminal jurisdiction/venue/nexus/authority/duty after  
repeated attempts to find some thread of jurisdiction/venue/nexus/authority/duty by  
administrative means,

And having seen the jury instructions for willful failure to file which has no instruction of  
jurisdiction/venue/authority, thus assumes jurisdiction upon this Man and Woman which  
is an error in law, and as such assumes a duty, which is also an error in law as there is or  
is not a duty, clearly defined as a matter of law,

**And where lack of duty and jurisdiction is fatal to a case unless shown upon the  
record, and no such record exists or the Internal Revenue Service and N.Y.S. Dept.  
of Taxation and Finance (NYSDTF) would surely come forth with such record, to  
keep this Man and Woman from error,**

And this Man and Woman have a clear right not to live a perpetual state of mixed war, and continual harassment causing an *"intentional irreparable injury,"* and for this cause have in good faith sought remedy administratively and been frustrated without end as the IRS and NYSDTF show a *"callus disregard for rights,"*

And where We have repeatedly asked the Internal Revenue Service and NYSDTF for proof of jurisdiction/venue/nexus to keep this Man and Woman from error, and yet they have an *"evil eye and uneven hand"* as outlaws, by refusing to provide any remedy establishing their *"abuse of office and ministerial duty,"* contrary to long established law, in all cases where a controversy is shown to exist,

And where Article 1, Section 8, Clause 17 defines the limits of congress specifically and gives no room for latitude, and the IRS has not shown this Man or Woman to be within those limits or to have such duty to file,

And where the 16<sup>th</sup> Amendment has no words of enlargement of jurisdiction and clearly defines the subject as the "several states" in keeping with the only true "subjects of Congress as a "federal government."

Where Federal was defined in Constitutional Convention as only having power to act upon the several states and not the People in the states and the federal government having never denied such and the **Supreme court upheld such fact** in US v Lopes and Hagans v Lavine,

And where the N.Y.S. Dept. of Taxation and Finance using U.S.C. 26 to determine taxation upon this Man and Woman, has shown no jurisdiction/venue/authority over this Man and Woman under U.S.C. 26,

**And where the code is not the law of the Sovereign and the Sovereign is not named in the codes except as for His protection, as explicitly shown by quote of Yick Wo v Hopkins,**

And where Hale v Henkle declares that the unenfranchised man has no duty to government and only has a right to be protected by such government in his private affairs,

And where *"Silence can be equated with fraud where there is a legal or moral duty to speak, or where an inquiry left unanswered would be intentionally misleading... We cannot condone this shocking behavior by the IRS."* (US v Tweel.)

Therefore the IRS and NYSDTF have created a *"differential standard"* having shown no duty to file, nor pay a tax as a result of some taxable activity in such jurisdiction/venue. **The IRS and NYSDTF having defaulted at all times relevant to this case, to declare or prove jurisdiction upon the record or to make a record of such,** and time has now past to do so, absent an immediate declaration of this court,

We have made Our ASSERVATION AND DECLARATION OF STATUS filed in this proceeding as **EXHIBIT I, a notorious public document** filed with and stamped by the N.Y.S. Department of State (No. A-119669E).

**JUDGMENT**

Therefore, this is an at law default declaration by this Sovereign Man and Woman that We will not file any future returns except to claim a refund, and demand a return of all funds paid in prior years for the same, as We were coerced to sign financial instruments and file out of threat, duress and coercion of prosecution for such failure which is fraud.

Further, **non-notorious acts** of IRS or NYSDTF notwithstanding, this is a default judgment upon the IRS and NYSDTF for want of declaratory judgment that is required by ministerial duty to the Sovereign. The IRS and NYSDTF having shown strong and persistent bias against this Sovereign Man and Woman in Our effort to obtain a true remedy, and offering no remedy; therefore being the Creator of the Constitution, artificial entity governments, it's courts, Superior to and not subject to Our creations in every respect by right of law for want of a plea,

Hereby declare as the Founders did by Declaration, that by the silence of the Internal Revenue Service and the N.Y.S. Dept. of Taxation and Finance, in default and for want of a plea, **have affirmed that this Man and Woman are indeed Sovereign and Superior** and in the words of Justice Matthews in Yick Wo, "**is not subject to law,**" other than as a source of natural law of Our Creator, and as such has a right to be left alone in Our Being and Property.

So declared and ordered, as a matter of law and fact by right, this 6<sup>TH</sup> Day of APRIL, 2004.

Anthony L. Montone  
Anthony L. Montone  
258 Princeton Road Webster, NY  
585-670-0181

Nicole H. Montone  
Nicole H. Montone  
258 Princeton Road Webster, NY  
585-670-0181

I, Anthony L. Montone affirm that I have served a copy of the foregoing via Certified Mail on or about the 6<sup>TH</sup> Day of APRIL, 2004, upon:

Internal Revenue Service-	Certified Mail # 70031010000005489954
Mr. D.L. Parizek-	Certified Mail # 70031010000005489961
Ms. Deborah J. Prutzman	Certified Mail # 70031010000005489947
N.Y.S. Dept. of Taxation and Finance-	Certified Mail # 70031010000005489930
N.Y.S. Assessment Receivables-	Certified Mail # 70031010000005489923
Mr. Sean O'Connor-	Certified Mail # 70031010000005489916

I, Anthony L. Montone affirm the statements in this Declaration of Judgment are true to the best of Our knowledge and belief and are intended to establish in good faith, the facts and truth in this proceeding.

Anthony L. Montone  
Anthony L. Montone, executed before Notary  
Sui Juris

On this 6<sup>th</sup> Day of April, 2004, the signatory, Anthony L. Montone Sui Juris, personally appeared before me and is known to me and did affix his signature to this document. In witness thereof I set my hand and seal:

Signature: Anthony L. Montone

Notary Public in and for the State of New York SEAL}

My commission expires: 5/21/07

KELLY A. COCHRANE  
Notary Public, State Of New York  
Ontario County Reg #01CO6058939  
Commission Expires 05/21/07

AFFIDAVIT

I Christine Kester serving as a Notary Public in the State of New York have examined the documents labeled as "EXIBIT" (lettered A through H such as EXIBIT A, EXIBIT B, etc.) and I **verify that each EXIBIT is a true copy of the original documents** presented to me.

Signature: Christine Kester

Notary Public in and for the State of New York SEAL }

My commission expires: 6/2/07

Christine Kester  
Notary Public, State of New York  
No. 01KE6093245  
Monroe County  
6/2/07

# EXHIBIT A

Anthony L. and Nicole H. Montone  
258 Princeton Road  
Webster, NY 14580

Internal Revenue Service  
Dept. of the Treasury  
@ Of Mr. D.L. Parizek  
1973 North Rulon White Blvd.  
Ogden, UT 84201

CERTIFIED MAIL # 7003 1680 0004 1375 4982

Date: January 22, 2004

Please make this request a permanent record of our file.

**Subject: Common law, FOIA , and PA, Formal Request for the Revelation of venue, jurisdiction and authority and request for a due process hearing.**

**Scope: All Documents demonstrating any US or USA and/or state venue/jurisdiction/authority and all such interests in or over the being or property of the undersigned (requester).**

**Authority: Common law, FOIA and PA. LWIN V. I.N.S., 144 F3d 505 (7th Cir. 1998)  
*"Agencies must respond to the arguments made to them."***

## DOCUMENTS REQUESTED

COPIES OF ALL DOCUMENTS that are in your possession, under your control, or within your system of records, such documents demonstrating that the undersigned is a party to any social compact or contract which can be demonstrated to operate to confer any contractual, controlling, insurable, lawful, legal, pecuniary, regulatory, or any other interest in the being or property of the undersigned to the benefit of the US or USA or state, inclusive of it's aforementioned affiliates, agencies, agents, assignees, creditors, employees, franchisees, representatives, and servants, etc.

**Forward any documents that verify the undersigned is within the venue and jurisdiction or authority of this "Federal" agency.**

Note: "Federal" was defined in the Constitutional Convention as a government only having power to operate upon the several states.

This was verified by the cases of US v Lopez, 115 S.Ct.1624 and Hagans v Levine, 415 US 528 at 533.

*"The Framers of the First Amendment 'did not trust any government to separate the true from the false for us.' (Kleindienst v. Mandel, 408 U.S. 753, 773 (1972) (quoting Thomas v. Collins, 323 U.S. 516, 545 (Jackson, J., concurring)), and*

*"They protected the people against secret government."* (Detroit Free Press v. Ashcroft, 195 F. Supp. 2d 937).

**IF THERE ARE NO DOCUMENTS**, that are responsive to document the request, **so indicate, in your written response.**

If any documents are CODED with other than the plain English language, such that an ordinary publicly high school educated Citizen could not effectively read the context thereof, then these documents must be decoded to ordinary English.

1. Documents demonstrating that the undersigned is a citizen of the United States, or USA and/or the state.
2. Documents demonstrating that the undersigned owes any allegiance to The United States or USA and/or the state.
3. Documents of any Power(s) of Attorney or Appointment, such power(s) of attorney or appointment executed by the undersigned authorizing any party to create any debt or obligation on behalf of the undersigned, where any such debt would operate so as to cause the undersigned to become a third-party obligor upon such representative-created debt.
4. Documents demonstrating the undersigned have voluntarily agreed to underwrite any Public (government) debt of The United States or USA or state, as a third-party obligor thereto.
5. Documents demonstrating that the undersigned is subject to the venue and/or jurisdiction of your Constitution for the United States, US Code, US Regulations, any rules, policy or custom of the US or USA.

Note: *"Sovereignty itself is, of course, not subject to law, for it is the author and source of law;"* (Yick Wo v. Hopkins, 118 US 356, 370) and *"The law requires proof of jurisdiction to appear on the record of the administrative agency and all administrative proceedings"* (Hagans v. Lavine, 415 U.S. 528)

6. Documents demonstrating any lawfully acquired United States, state or any government interest(s) in the undersigned, his being, or his property.
7. Documents demonstrating any lawfully acquired United States or state jurisdiction (personal or rem) over the undersigned, his being, or his property.
8. Documents demonstrating that the undersigned is subject to the jurisdiction of the Congress, Executive, or Judicial Branch of the US or USA in any manner.
9. Documents demonstrating that any provisions set forth in the Constitution of the United States or Bill of Rights have been either superseded, suspended, or abolished for any reason, whatsoever.

10. Documents demonstrating that the Congress of The United States or the USA has delegated its authority to lay and collect a tax to the agency known as the IRS.  
Note: The Doctrine of Separation of Powers forbids this.
11. Documents demonstrating that the undersigned is a "Person, Individual, or taxpayer" as defined under IRC or its regulations.
12. Documents demonstrating that the undersigned is engaged in any criminal activity, "Interstate commerce or has a trade or business effective connected with the United States" or is an officer of a corporation, government official, mariner, Indian, officer, employee, subject or elected official of the US or USA.
13. Documents demonstrating that the undersigned is not entitled to refunds of taxes erroneously withheld from his payment for labor performed by him for himself for all years of record.
14. Documents demonstrating that the undersigned is subject to withholding or that the payor filing any information reports is an authorized appointed withholding agent.
15. Documents demonstrating any default at law of the undersigned.
16. Documents demonstrating any authority to SFR a 1040 Form or tax.
17. Documents upon which any deficiency is based and any forms 1120, 2209, 3614, 4089, 5471, 5172, 5344, 4549, 1902, 4666, 895, 3198, 5278, 5546, any variety of the foregoing forms or suffix variations.
18. Documents or case cites of authority that would indicate that any of the following not all inclusive rights have been abrogated by notorious intent by any Statute at Large or any session law:

Law of the Land right to question venue, jurisdiction, authority or abuse of public office.

Law of the Land right to earn a living.

Law of the Land right to acquire property.

Law of the Land right to be secure in property.

Law of the Land right to control property.

Law of the Land right to not be subject to Bill of Pains and Penalties.

Law of the Land right to not be subject to Corruption of Blood.

Law of the Land right to be left alone.

#### **DOCUMENTS AND/OR RECORDS NOT BEING SOUGHT**

At this time, the undersigned is NOT seeking documents and /or records containing any manner of writing which cannot be associated with, which is not pertaining to, or which cannot otherwise be identified with the undersigned, either directly or indirectly.

## SECRET DOCUMENTS AND/OR RECORDS

If some of those requested documents and/or records are allegedly exempt from release by the agency, please send the undersigned those portions that are reasonably separable, and provide the undersigned with an indexing, itemization, and detailed justification for withholding such documents from disclosure under common law.

## EXPECTATIONS

The undersigned expects those requested documents and/or records to be organized in an intelligible manner, and referenced or indexed to the aforementioned paragraphs one through eighteen. Any coded documents must be supplied with copies of appropriate cipher of codes as well as the decoded document to ordinary English language.

## APPROPRIATE RECIPIENT

If this request for documents and/or records is improperly addressed to you in your official capacity, **please forward to the appropriate person, thereafter immediately informing the undersigned of such forwarding**, inclusive of such appropriate person's name, title, mailing address with the correct postal zone, and with the date of origin and location of such forwarding action.

## CAVEAT

The undersigned fully expects a prompt response to this request with a reasonable expectation of two weeks. If there is any delay in response, then any pending administrative action in this case must be stayed till such documentation is delivered and a reasonable time given to inspect such documents for evidence of Fraud, Venue, Jurisdiction and Authority.

**Any refusal to disclose such documents, computer codes, or proof of venue jurisdiction will be grounds for estoppel in any redress court action and foundational grounds for ex parte suits. Silence is equated with default and fraud.**

## CERTIFICATION

We, Anthony L. Montone and Nicole H. Montone (herein after I) recognized by our Creator as one through holy marriage, Sui Juris, and the Sovereigns spoken of in the *Yick Wo* case, **not** an officer, employee, elected official, corporate officer, mariner, Indian, nor ward of the United States or USA do hereby declare, affirm and certify:

1. That I receive my written communications in care of: 258 Princeton Road, Webster, New York 14580.
2. That I am lawfully authorized and legally empowered to make this document request on my own behalf under the law of the land.
3. That because of injury threats, duress, and coercion, I have a substantial interest in the documents and/or records being sought herein to lay a legal foundation for suit.



4. That I have a legal right to require that this Formal squarely challenged venue/jurisdiction Request for the Production of Documents be answered promptly to prevent further injury to this man/woman.
5. That any failure to answer this Formal Request promptly, will further jeopardize, injure and damage my rights to happiness, liberty and property, as I am under threat of unlawful seizure.
6. That these requested documents and/or records are for my use and can be used against public servants, STATE, IRS, US, or USA in a court of competent jurisdiction.
7. That I request a due process hearing on this matter within two weeks, an extension of time in which to file a tax court petition on the proposal and stay of proceedings. If no such hearing is granted or time extended, this will be grounds for lack of due process.
8. That I declare under the penalty of bearing false witness in front of my Creator, that the foregoing Certification is accurate, true and correct to the best of my knowledge.

EXECUTED THIS 22<sup>nd</sup> day of January 2004.

Anthony L. Montone  
Anthony L. Montone

Nicole H. Montone  
Nicole H. Montone


Anthony L. Montone  
Anthony L. Montone- executed before Notary  
Sui Juris DL 132198335

On this 26<sup>th</sup> day of JAN 2004, the signatory, Anthony L. Montone Sui Juris, personally appeared before me and is known to me and did affix his signature to this document. In witness thereof I set my hand and seal:

Notary Public in and for the State of New York  
Residing at: NORTH ROSE NY  
My commission expires: 4-18-2006

SHARON E. WILSON #4927884  
Notary Public, State of New York  
Qualified in Wayne County  
My Commission Expires Apr. 18, 2006

Enclosed: copy- 1<sup>st</sup> page of PRE-6640 (OSC)(Rev.02-99)



Internal Revenue Service  
Department of the Treasury  
1973 North Rulon White Blvd.  
Ogden, UT 84201

Mail Stop: 4612  
Person to Contact:  
Mr. Parizek  
Employee Number: 29-61699  
Telephone Number:  
1-866-899-9083  
Fax Number: 801-629-1175  
Hours: 7:00 a.m. to 7:00 p.m.  
Mountain Time  
Monday - Friday  
Taxpayer Identification Number:  
129-52-0225  
Tax Period(s) Ending:  
December 31, 2002  
Form: 1040

Date: June 13, 2003

MAILED 6/13/03

ANTHONY L. & NICOLE MONTONE  
258 PRINCETON RD  
WEBSTER NY 14580

Dear ANTHONY L. & NICOLE MONTONE:

We cannot accept the Form(s) 1040 we received from you for the above tax year. We find it does not contain the information that the law requires you to give, and it does not comply with certain Internal Revenue Code requirements.

We have determined that the return is a frivolous return. The position you have taken has no basis in law and represents a frivolous position. The tax laws are very clear and have been tested in the courts - including the Supreme Court of the United States. Claims, such as yours, have been considered and rejected repeatedly as frivolous and without merit by the federal courts. Therefore, we will not respond to future correspondence from you concerning these same issues.

We encourage you to seek advice from competent tax counsel or an attorney qualified to practice in your state to assist in answering your tax questions.

This letter is your notice of legal requirements for filing Federal individual income tax returns and to inform you of the potential consequence of the position you have taken. We are offering you an opportunity to correct your frivolous position within 30 days from the date of this letter and avoid the assertion of a frivolous return penalty and/or the issuance of a notice of deficiency. A notice of deficiency is a legal notice stating the amount of the proposed tax increase and penalties and explaining your rights to file a petition with the United States Tax Court. Please read the filing requirements and the explanation of the penalty shown in the enclosed Notice 555. Failure to file a required return may subject you to prosecution under Internal Revenue Code Section 7203.



## Track & Confirm

### Current Status

You entered 7003 1680 0004 1375 4982

Your item was delivered at 10:58 am on February 02, 2004 in OGDEN, UT 84201.

[Shipment Details >](#)

### Track & Confirm

Enter label number:

[Track & Confirm FAQs](#)

### Notification Options

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7003 1680 0004 1375 4982

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(Domestic Mail Only; No Insurance Coverage Provided)	
For delivery information visit our website at <a href="http://www.usps.com">www.usps.com</a>	
OFFICIAL USE	
Postage	\$ 60
Certified Fee	2.30
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 2.90
Sent To <b>INTERNAL REVENUE SERVICE</b>	
OF MR. D.L. PARREK	
Street, Apt. No., or PO Box No. <b>1973 NORTH RULON Rd.</b>	
City, State, ZIP+4 <b>OGDEN, UT 84201</b>	
PS Form 3800, June 2002 See Reverse for Instructions	

EXHIBIT B

Anthony L. and Nicole H. Montone  
258 Princeton Road  
Webster, NY 14580

Internal Revenue Service  
P.O. Box 245  
Bensalem, PA 19020

CERTIFIED MAIL # 7003 1680 0004 1375 5002

Date: January 22, 2004

Please make this request a permanent record of our file.

Subject: Common law, FOIA , and PA, **Formal Request for the Revelation of venue, jurisdiction and authority and request for a due process hearing.**

Scope: All Documents demonstrating any US or USA and/or state **venue/jurisdiction/authority and all such interests in or over the being or property of the undersigned (requester).**

Authority: Common law, FOIA and PA. LWIN V. I.N.S., 144 F3d 505 (7th Cir. 1998)  
***"Agencies must respond to the arguments made to them."***

#### DOCUMENTS REQUESTED

COPIES OF ALL DOCUMENTS that are in your possession, under your control, or within your system of records, such documents demonstrating that the undersigned is a party to any social compact or contract which can be demonstrated to operate to confer any contractual, controlling, insurable, lawful, legal, pecuniary, regulatory, or any other interest in the being or property of the undersigned to the benefit of the US or USA or state, inclusive of it's aforementioned affiliates, agencies, agents, assignees, creditors, employees, franchisees, representatives, and servants, etc.

**Forward any documents that verify the undersigned is within the venue and jurisdiction or authority of this "Federal" agency.**

Note: "Federal" was defined in the Constitutional Convention as a government only having power to operate upon the several states.

This was verified by the cases of US v Lopez, 115 S.Ct.1624 and Hagans v Levine, 415 US 528 at 533.

*"The Framers of the First Amendment 'did not trust any government to separate the true from the false for us.' (Kleindienst v. Mandel, 408 U.S. 753, 773 (1972) (quoting Thomas v. Collins, 323 U.S. 516, 545 (Jackson, J., concurring)), and "They protected the people against secret government." (Detroit Free Press v. Ashcroft, 195 F. Supp. 2d 937).*

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4. Documents demonstrating the undersigned have voluntarily agreed to underwrite any Public (government) debt of The United States or USA or state, as a third-party obligor thereto.
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13. Documents demonstrating that the undersigned is not entitled to refunds of taxes erroneously withheld from his payment for labor performed by him for himself for all years of record.
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15. Documents demonstrating any default at law of the undersigned.
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17. Documents upon which any deficiency is based and any forms 1120, 2209, 3614, 4089, 5471, 5172, 5344, 4549, 1902, 4666, 895, 3198, 5278, 5546, any variety of the foregoing forms or suffix variations.
18. Documents or case cites of authority that would indicate that any of the following not all inclusive rights have been abrogated by notorious intent by any Statute at Large or any session law:

Law of the Land right to question venue, jurisdiction, authority or abuse of public office.  
Law of the Land right to earn a living.  
Law of the Land right to acquire property.  
Law of the Land right to be secure in property.  
Law of the Land right to control property.  
Law of the Land right to not be subject to Bill of Pains and Penalties.  
Law of the Land right to not be subject to Corruption of Blood.  
Law of the Land right to be left alone.

#### **DOCUMENTS AND/OR RECORDS NOT BEING SOUGHT**

At this time, the undersigned is NOT seeking documents and /or records containing any manner of writing which cannot be associated with, which is not pertaining to, or which cannot otherwise be identified with the undersigned, either directly or indirectly.

## SECRET DOCUMENTS AND/OR RECORDS

If some of those requested documents and/or records are allegedly exempt from release by the agency, please send the undersigned those portions that are reasonably separable, and provide the undersigned with an indexing, itemization, and detailed justification for withholding such documents from disclosure under common law.

## EXPECTATIONS

The undersigned expects those requested documents and/or records to be organized in an intelligible manner, and referenced or indexed to the aforementioned paragraphs one through eighteen. Any coded documents must be supplied with copies of appropriate cipher of codes as well as the decoded document to ordinary English language.

## APPROPRIATE RECIPIENT

If this request for documents and/or records is improperly addressed to you in your official capacity, **please forward to the appropriate person, thereafter immediately informing the undersigned of such forwarding**, inclusive of such appropriate person's name, title, mailing address with the correct postal zone, and with the date of origin and location of such forwarding action.

## CAVEAT

The undersigned fully expects a prompt response to this request with a reasonable expectation of two weeks. If there is any delay in response, then any pending administrative action in this case must be stayed till such documentation is delivered and a reasonable time given to inspect such documents for evidence of Fraud, Venue, Jurisdiction and Authority.

**Any refusal to disclose such documents, computer codes, or proof of venue jurisdiction will be grounds for estoppel in any redress court action and foundational grounds for ex parte suits. Silence is equated with default and fraud.**

## CERTIFICATION

We, Anthony L. Montone and Nicole H. Montone (herein after I) recognized by our Creator as one through holy marriage, Sui Juris, and the Sovereigns spoken of in the *Yick Wo* case, ~~not an officer, employee, elected official, corporate officer, mariner, Indian, nor ward of the~~ United States or USA do hereby declare, affirm and certify:

1. That I receive my written communications in care of: 258 Princeton Road, Webster, New York 14580.
2. That I am lawfully authorized and legally empowered to make this document request on my own behalf under the law of the land.
3. That because of injury threats, duress, and coercion, I have a substantial interest in the documents and/or records being sought herein to lay a legal foundation for suit.

4. That I have a legal right to require that this Formal squarely challenged venue/jurisdiction Request for the Production of Documents be answered promptly to prevent further injury to this man/woman.
5. That any failure to answer this Formal Request promptly, will further jeopardize, injure and damage my rights to happiness, liberty and property, as I am under threat of unlawful seizure.
6. That these requested documents and/or records are for my use and can be used against public servants, STATE, IRS, US, or USA in a court of competent jurisdiction.
7. That I request a due process hearing on this matter within two weeks, an extension of time in which to file a tax court petition on the proposal and stay of proceedings. If no such hearing is granted or time extended, this will be grounds for lack of due process.
8. That I declare under the penalty of bearing false witness in front of my Creator, that the foregoing Certification is accurate, true and correct to the best of my knowledge.

EXECUTED THIS 22<sup>nd</sup> day of January 2004.

Anthony L. Montone  
Anthony L. Montone

Nicole H. Montone  
Nicole H. Montone

Anthony L. Montone  
Anthony L. Montone - executed before Notary  
Sui Juris DL 13 2198335

On this 26<sup>th</sup> day of JAN 2004, the signatory, Anthony L. Montone Sui Juris, personally appeared before me and is known to me and did affix his signature to this document. In witness thereof I set my hand and seal:

Notary Public in and for the State of New YORK  
Residing at: NORTH ROSE NY  
My commission expires: 4-18-2006

SHARON E. WILSON #4927054  
Notary Public, State of New York  
Qualified in Wayne County  
My Commission Expires Apr. 18, 2006

Enclosed: copy- 1<sup>st</sup> page of Form 6335 (NMF), Document Locator # 52655-309-19020-03



ANTHONY L & N A H MONTONE

258 PRINCETON RD

WEBSTER

NY

14580-1469

REMINDER - YOU STILL OWE

(According to our records, you have not paid the federal tax you owe for the tax period shown below.)

Account Summary

Tax Form: CVPN Tax Period: 12/31/2002

Amount Due: 500.00

We charged you a penalty under Section 6702 of the Internal Revenue Code for filing a frivolous income tax return.

If you disagree with the assessment(s) and want to contest it, you must pay the entire penalty and file a claim for refund on Form 843, Claim for Refund and Request for Abatement. You must file Form 843 within two years of the date of the payment.

After six months have passed from the date on which you filed the Form 843, you may bring suit in United States District Court of the Court of Claims. If we deny your claim, the suit must be filed within two years of the date of disallowance.

The amount due may include penalty and interest. If you have any questions concerning the amount due or penalty or interest computation, please call us at 1-888-829-7434.

See the enclosed Publication 1,  
Your Rights as a Taxpayer.

----- Cut along line -----

Please mail this part with your payment, payable to the United States Treasury.

Form 6335(NMF) Rev. 01-02

Notice Date: 12/15/2003

Document Locator Number:

52655-309-19020-03

To ensure proper crediting, write the following on your check:

/CVPN /28/12-31-2002/129-52-0225-N

Amount Due: 500.00

Reply to:  
INTERNAL REVENUE SERVICE  
P.O. Box 245  
Bensalem, PA 19020

ANTHONY L & N A H MONTONE

258 PRINCETON RD

WEBSTER

NY 14580-1469

EXHIBIT C

Anthony L. and Nicole H. Montone  
258 Princeton Road  
Webster, NY 14580

Internal Revenue Service  
@ DEBORAH J PRUTZMAN  
Corporate Place  
255 East Ave  
Rochester, NY 14604

CERTIFIED MAIL # 7003 1680 0004 1375 3015

Date: February 19, 2004

Please make this request a permanent record of our file.

Subject: Common law, FOIA, and PA, **Formal Request for the Revelation of venue, jurisdiction and authority and request for a due process hearing.**

Scope: All Documents demonstrating any US or USA and/or state **venue/jurisdiction/authority and all such interests in or over the being or property of the undersigned (requester).**

Authority: Common law, FOIA and PA. LWIN V. I.N.S., 144 F3d 505 (7th Cir. 1998)  
***"Agencies must respond to the arguments made to them."***

#### DOCUMENTS REQUESTED

COPIES OF ALL DOCUMENTS that are in your possession, under your control, or within your system of records, such documents demonstrating that the undersigned is a party to any social compact or contract which can be demonstrated to operate to confer any contractual, controlling, insurable, lawful, legal, pecuniary, regulatory, or any other interest in the being or property of the undersigned to the benefit of the US or USA or state, inclusive of it's aforementioned affiliates, agencies, agents, assignees, creditors, employees, franchisees, representatives, and servants, etc.

**Forward any documents that verify the undersigned is within the venue and jurisdiction or authority of this "Federal" agency.**

Note: "Federal" was defined in the Constitutional Convention as a government only having power to operate upon the several states.

This was verified by the cases of US v Lopez, 115 S.Ct.1624 and Hagans v Levine, 415 US 528 at 533.

*"The Framers of the First Amendment 'did not trust any government to separate the true from the false for us.' (Kleindienst v. Mandel, 408 U.S. 753, 773 (1972) (quoting Thomas v. Collins, 323 U.S. 516, 545 (Jackson, J., concurring)), and*

*"They protected the people against secret government."* (Detroit Free Press v. Ashcroft, 195 F. Supp. 2d 937).

**IF THERE ARE NO DOCUMENTS**, that are responsive to document the request, **so indicate, in your written response.**

If any documents are CODED with other than the plain English language, such that an ordinary publicly high school educated Citizen could not effectively read the context thereof, then these documents must be decoded to ordinary English.

1. Documents demonstrating that the undersigned is a citizen of the United States, or USA and/or the state.
2. Documents demonstrating that the undersigned owes any allegiance to The United States or USA and/or the state.
3. Documents of any Power(s) of Attorney or Appointment, such power(s) of attorney or appointment executed by the undersigned authorizing any party to create any debt or obligation on behalf of the undersigned, where any such debt would operate so as to cause the undersigned to become a third-party obligor upon such representative-created debt.
4. Documents demonstrating the undersigned have voluntarily agreed to underwrite any Public (government) debt of The United States or USA or state, as a third-party obligor thereto.
5. Documents demonstrating that the undersigned is subject to the venue and/or jurisdiction of your Constitution for the United States, US Code, US Regulations, any rules, policy or custom of the US or USA.

Note: *"Sovereignty itself is, of course, not subject to law, for it is the author and source of law;"* (Yick Wo v. Hopkins, 118 US 356, 370) and *"The law requires proof of jurisdiction to appear on the record of the administrative agency and all administrative proceedings"* (Hagans v. Lavine, 415 U.S. 528)

6. Documents demonstrating any lawfully acquired United States, state or any government interest(s) in the undersigned, his being, or his property.
7. Documents demonstrating any lawfully acquired United States or state jurisdiction (personal or rem) over the undersigned, his being, or his property.
8. Documents demonstrating that the undersigned is subject to the jurisdiction of the Congress, Executive, or Judicial Branch of the US or USA in any manner.
9. Documents demonstrating that any provisions set forth in the Constitution of the United States or Bill of Rights have been either superseded, suspended, or abolished for any reason, whatsoever.

10. Documents demonstrating that the Congress of The United States or the USA has delegated its authority to lay and collect a tax to the agency known as the IRS.  
Note: The Doctrine of Separation of Powers forbids this.
11. Documents demonstrating that the undersigned is a "Person, Individual, or taxpayer" as defined under IRC or its regulations.
12. Documents demonstrating that the undersigned is engaged in any criminal activity, "Interstate commerce or has a trade or business effective connected with the United States" or is an officer of a corporation, government official, mariner, Indian, officer, employee, subject or elected official of the US or USA.
13. Documents demonstrating that the undersigned is not entitled to refunds of taxes erroneously withheld from his payment for labor performed by him for himself for all years of record.
14. Documents demonstrating that the undersigned is subject to withholding or that the payor filing any information reports is an authorized appointed withholding agent.
15. Documents demonstrating any default at law of the undersigned.
16. Documents demonstrating any authority to SFR a 1040 Form or tax.
17. Documents upon which any deficiency is based and any forms 1120, 2209, 3614, 4089, 5471, 5172, 5344, 4549, 1902, 4666, 895, 3198, 5278, 5546, any variety of the foregoing forms or suffix variations.
18. Documents or case cites of authority that would indicate that any of the following not all inclusive rights have been abrogated by notorious intent by any Statute at Large or any session law:

Law of the Land right to question venue, jurisdiction, authority or abuse of public office.

Law of the Land right to earn a living.

Law of the Land right to acquire property.

Law of the Land right to be secure in property.

Law of the Land right to control property.

Law of the Land right to not be subject to Bill of Pains and Penalties.

Law of the Land right to not be subject to Corruption of Blood.

Law of the Land right to be left alone.

#### **DOCUMENTS AND/OR RECORDS NOT BEING SOUGHT**

At this time, the undersigned is NOT seeking documents and /or records containing any manner of writing which cannot be associated with, which is not pertaining to, or which cannot otherwise be identified with the undersigned, either directly or indirectly.

## SECRET DOCUMENTS AND/OR RECORDS

If some of those requested documents and/or records are allegedly exempt from release by the agency, please send the undersigned those portions that are reasonably separable, and provide the undersigned with an indexing, itemization, and detailed justification for withholding such documents from disclosure under common law.

## EXPECTATIONS

The undersigned expects those requested documents and/or records to be organized in an intelligible manner, and referenced or indexed to the aforementioned paragraphs one through eighteen. Any coded documents must be supplied with copies of appropriate cipher of codes as well as the decoded document to ordinary English language.

## APPROPRIATE RECIPIENT

If this request for documents and/or records is improperly addressed to you in your official capacity, **please forward to the appropriate person, thereafter immediately informing the undersigned of such forwarding**, inclusive of such appropriate person's name, title, mailing address with the correct postal zone, and with the date of origin and location of such forwarding action.

## CAVEAT

The undersigned fully expects a prompt response to this request with a reasonable expectation of two weeks. If there is any delay in response, then any pending administrative action in this case must be stayed till such documentation is delivered and a reasonable time given to inspect such documents for evidence of Fraud, Venue, Jurisdiction and Authority.

**Any refusal to disclose such documents, computer codes, or proof of venue jurisdiction will be grounds for estoppel in any redress court action and foundational grounds for ex parte suits. Silence is equated with default and fraud.**

## CERTIFICATION

We, Anthony L. Montone and Nicole H. Montone (herein after I) recognized by our Creator as one through holy marriage, Sui Juris, and the Sovereigns spoken of in the *Yick Wo* case, **not** an officer, employee, elected official, corporate officer, mariner, Indian, nor ward of the United States or USA do hereby declare, affirm and certify:

1. That I receive my written communications in care of: 258 Princeton Road, Webster, New York 14580.
2. That I am lawfully authorized and legally empowered to make this document request on my own behalf under the law of the land.
3. That because of injury threats, duress, and coercion, I have a substantial interest in the documents and/or records being sought herein to lay a legal foundation for suit.

4. That I have a legal right to require that this Formal squarely challenged venue/jurisdiction Request for the Production of Documents be answered promptly to prevent further injury to this man/woman.
5. That any failure to answer this Formal Request promptly, will further jeopardize, injure and damage my rights to happiness, liberty and property, as I am under threat of unlawful seizure.
6. That these requested documents and/or records are for my use and can be used against public servants, STATE, IRS, US, or USA in a court of competent jurisdiction.
7. That I request a due process hearing on this matter within two weeks, an extension of time in which to file a tax court petition on the proposal and stay of proceedings. If no such hearing is granted or time extended, this will be grounds for lack of due process.
8. That I declare under the penalty of bearing false witness in front of my Creator, that the foregoing Certification is accurate, true and correct to the best of my knowledge.

EXECUTED THIS 20<sup>th</sup> day of FEBRUARY, 2004

Anthony Montone  
Anthony L. Montone

Nicole Montone  
Nicole H. Montone

Anthony Montone  
Anthony L. Montone - executed before Notary  
Sui Juris

On this 20 day of FEBRUARY 2004, the signatory, Anthony L. Montone Sui Juris, personally appeared before me and is known to me and did affix his signature to this document. In witness thereof I set my hand and seal:

Glen D. Liucci  
Notary Public in and for the State of NEW YORK  
Residing at: 1838 EMPIRE BLVD. WEBSTER NY 14580  
My commission expires: 8/26/06

Enclosed: Copy of Letter 3164B (DO)

GLEN D. LIUCCI  
NOTARY PUBLIC, State of New York  
No. 01LI6079662  
Monroe County  
Commission Expires August 26, 2006 ML

CORPORATE PLACE  
255 EAST AVE  
ROCHESTER, NY 14604

Letter Number: 3164B (DO)

Letter Date:

02/18/2004

Social Security Number or

Employer Identification Number:

129-52-0225N

For Assistance You May Call Us At:

(585)262-1139

Person to Contact:

DEBORAH J PRUTZMAN

Employee Identification Number:

16-00809

ANTHONY L & N A H MONTONE  
258 PRINCETON RD  
WEBSTER, NY 14580-1469

COPY

Dear ANTHONY L & N A H MONTONE :

We are attempting to collect unpaid taxes from you. You should already be aware of this from our previous contacts with you. Generally, our practice is to deal directly with a taxpayer or a taxpayer's duly authorized representative. However, we sometimes talk with other persons, for example when we need information that the taxpayer has been unable to provide, or to verify information we have received.

We are writing to tell you that we may contact other persons. If we do contact other persons we will generally need to tell them limited information, such as your name. The law prohibits us from disclosing any more information than is necessary to obtain or verify the information we are seeking. Our need to contact other persons may continue as long as there is activity on this matter.

If you have any questions regarding this letter or wish to request a list of contacts, please do not hesitate to contact us at the telephone number listed above.

Sincerely,

DEBORAH J PRUTZMAN  
REVENUE OFFICER



## Track & Confirm

### Current Status

You entered 7003 1680 0004 1375 3015

Your item was delivered at 10:06 am on February 23, 2004 in  
ROCHESTER, NY 14604.

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Postage \$	0.60
Return Receipt Fee (Endorsement Required)	2.30
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees \$	2.90
UNIT ID: 0980	
Postmark Here	
Clerk: KPF2TX	
02/20/04	
Sent To	
IRS @ DEBORAH J TRUTZMAN	
Street, Apt. No. or PO Box No. CORPORATE PLACE	
City, State, ZIP+4 255 EAST AVE	
ROCHESTER, NY 14604	
PS Form 3800, June 2002	
See Reverse for Instructions	



7003 1680 0004 1375 3060

7003 1680 0004 1375 3053

CERTIFIED MAIL #

EXHIBIT D

Anthony L. Montone  
Nicole H. Montone

**FIRST AMENDMENT  
COMPLAINT FOR REDRESS AND DEMAND**

v.

Internal Revenue Service  
Mr. D.L. Parizek  
Ms. Deborah J. Prutzman  
Jointly, individually and personally

Regarding tax year 2002, and Letter 3164B (DO) attached, from Revenue Officer Deborah J. Prutzman to Anthony L. and Nicole H. Montone, the following statements are true.

For over eight months We have communicated by Certified Mail correspondence with the IRS on this matter without answers to Our correspondence and have now received a letter from Deborah J. Prutzman indicating that IRS collections will occur, threatening Our property and rights to property, therefore We must formally complain under Our First Amendment and Pendant State Right to Redress and seek final judgment in this controversy as a matter of law.

On 7/1/03 and again on 1/22/04 We sent a request for any documents or conference to Mr. D.L. Parizek, in the Ogden Utah Office (Examination Branch Unit) demanding any documents in the system of records which would demonstrate "that the undersigned is a party to any social compact or contract which can be demonstrated to operate to confer any contractual, controlling, insurable, lawful, legal, pecuniary, regulatory, or any other interest in the being and/or property of the undersigned to the benefit of the US or USA or state, inclusive of it's aforementioned affiliates, agencies, agents, assignees, creditors, employees, franchisees, representatives, and servants, etc."

On 1/2/04 and again on 1/22/04 We sent a request for any documents or conference to the Internal Revenue Service, Bensalem Pennsylvania Office (from whom we have received threatening letters) which would demonstrate "that the undersigned is a party to any social compact or contract which can be demonstrated to operate to confer any contractual, controlling, insurable, lawful, legal, pecuniary, regulatory, or any other interest in the being and/or property of the undersigned to the benefit of the US or USA or state, inclusive of it's aforementioned affiliates, agencies, agents, assignees, creditors, employees, franchisees, representatives, and servants, etc."

On 2/19/04 We sent a request for any documents or conference to Deborah J. Prutzman, in the Rochester New York IRS Office which would demonstrate "that the undersigned is a party to any social compact or contract which can be demonstrated to operate to confer any contractual, controlling, insurable, lawful, legal, pecuniary, regulatory, or any other interest in the being and/or property of the undersigned to the benefit of the US or USA or state, inclusive of it's aforementioned affiliates, agencies, agents, assignees, creditors, employees, franchisees, representatives, and servants, etc."

To date, we have received no response from anyone regarding our letters or FOIAs and by your inactions you have injured and placed Us in a desperate situation as you move to collect a created debt that We are not liable for and do not owe, therefore;

You have in bad faith denied our right to due process by default upon your ministerial duty to answer correspondence in our attempt to show that the IRS is in error on this matter. We have attempted to secure evidence that the IRS has subject matter or rem jurisdiction in this matter, and cannot find any such lawful evidence.

### COMMON LAW OF THE LAND

In The Case of the Tailors, Coke wrote again that at the common law, no man could be prohibited from working in any lawful trade, for the law abhors idleness, the mother of all evil . . . especially in young men, who ought in their youth, (which is their seed time) to learn lawful sciences and trades, which are profitable to the commonwealth, and whereof they might reap the fruit in their old age, for idle in youth, poor in age; and therefore the common law abhors all monopolies, which prohibit any from working in any lawful trade. 77 Eng. Rep. 1218 [1615], at 1218

"...the one great principle conferred upon the citizens of the United States, to wit, the right to pursue any lawful business or vocation in any manner not inconsistent with the equal rights of others which may increase their prosperity or develop their faculties so as to give them the highest enjoyment, ..." *May v. People*, 27 P. 1010, at 1012 Colorado 1891

"The individual, unlike the corporation, cannot be taxed for the mere privilege of existing. The corporation is an artificial entity which owes its existence and charter powers to the state; but the individuals' Right to live and own property are natural rights for the enjoyment of which an excise cannot be imposed." *Corn v. Fort*, 95 S.W.2d 620 (1936)

"Also it is incumbent upon the party who infringes upon this right to supply the burden of proof in it's defense", *Busey v. District of Columbia*, 78 AppDC 189. See, also *Sherar v. Cullen*, 481 F 945.

*Wynehamer v. People*, 13 N.Y. 378 (1856), quoting " *Taylor v. Porter* (4 Hill, 145), said: "The words 'law of the land,' as here used, do not mean a statute passed for the purpose of working the wrong. That construction would render the restriction absolutely nugatory, and turn this part of the constitution into mere nonsense." And again: "The meaning of the section, then, seems to be, that no member of the state shall be disfranchised of any of his rights and privileges, unless the matter be adjudged against him upon trial had according to the course of the common law. It must be ascertained judicially that he has forfeited his privileges, or that some one else has a superior title to the property he possesses, before either of them can be taken from him. It cannot be done by mere legislation." Again he adds, speaking of the words "due process of law:" "If the legislature can take the property of A, and give it to B, they can take A himself and either shut him up in prison, or put him to death. But none of these things can be done by mere legislation."

**"If a question is raised regarding the recognition of a taxpayers right to due process of law, the issue should be resolved before proceeding with collection. Violation of a taxpayers clearly established CONSTITUTIONAL RIGHTS could expose a collector (IRS Agent) to PERSONAL LIABILITY".** *Davis v. Scherer*, 468 US 183, 1984

**"The law requires proof of jurisdiction to appear on the record of the administrative agency and all administrative proceedings."** *Hagans v. Lavine* 415 US 533

**"Sovereignty itself is, of course, not subject to law, for it is the author and source of law; but in our system, while sovereign powers are delegated to the agencies of government, sovereignty itself remains with the people, by whom and for whom all government exists and acts. And the law is the definition and limitation of power. For, the very idea that man may be compelled to hold his life, or the means of living, or any material right essential to the enjoyment of life, at the mere will of another, seems to be intolerable in any country where freedom prevails, as being the essence of slavery itself."** *Yick Wo v Hopkins*, 118 US 356, 370

### **DEMAND for PLAIN, SPEEDY, ADEQUATE REMEDY AT LAW**

**We demand that the IRS immediately respond to this default by:**

1. IRS correcting any errors in law of any of its records, Our letters or this complaint.
2. Response to the aforementioned letter for specific documents showing a lawful interest in Our being or property (subject matter and rem jurisdiction).

3. Photocopy of any case which has overturned *Yick Wo v Hopkins*, and any notorious law which would work specifically upon Anthony L. Montone and Nicole H. Montone to make "subject" to the Federal IRC or it's regulations (personal jurisdiction), AND,

4. Photocopy of any "Congressional statute at large" which by clear and express language abrogates the common law right to earn a living, obtain, control and enjoy property without infringement of such right. AND,

5. This also constitutes a demand for the return of all property taken without jurisdiction and authority of real law upon final default, for which such property or right to property record exists.

Failure to relevant response to this complaint within 30 (THIRTY) days after Certified Mail date of this letter by ministerial duty, will constitute a default and judgment in favor of Anthony L. Montone and Nicole H. Montone against the IRS and

Will be tacit agreement that Anthony L. Montone and Nicole H. Montone are not liable nor have a duty by subjective law for any IRS created alleged debt assessment and bill, which is an error, void and is not enforceable.

Failure to respond will latch and bar any assertion of any lawful evidence of personal, subject matter or rem jurisdiction of the alleged debt at a later time. The law of latches and bars will apply to any judicial proceedings civil or criminal. We insist on our right to be left alone.

#### AFFIDAVIT

State of New York        }  
                                  } ss: Anthony L. Montone  
County of Monroe        }       Nicole H. Montone

I, Anthony L. Montone and I, Nicole H. Montone, (recognized as one through Our Creator God by Holy Matrimony), Sui Juris, hereafter We, and competent to testify by first hand knowledge do hereby affirm that:

We live at 258 Princeton Road, Webster, New York and are New York Citizens.

We have never knowingly or intentionally represented ourselves as "ANTHONY L MONTONE and NICOLE H MONTONE" and to our knowledge it is impossible to form a signature in all caps.

We are not officers, employees, or elected officials of any government, Indians or mariners, nor have a trade or business effectively coupled to the US.

We are not aware of having received any estate or gift income, nor income from any US source.

We have endeavored over the eight months to correct the IRS record or determine a true and lawful duty or liability for this alleged debt and have been hampered by lack of personal correspondence denying Our rights to due process.

On or about 7/1/03 and 1/2/04 and 1/22/04 and again on 2/19/04 We sent a Certified Mail request for documents in a last attempt to see if there was any possible record of a real lawful debt that we could be liable for by some unknown thread of liability or duty.

Having exhausted our avenues to seek to correct any misinformation the IRS has about our alleged duty or liability, their defaults shows no lawful duty or liability for their created and alleged debt.

We do not owe the IRS, US Treasury, or any other government entity any debt, nor property, or rights to property.

In good faith We have tried to show the IRS that we do not owe a debt or duty to any government entity, and We are not liable for the debt IRS has created.

We are the Creators of Government and stand Superior in relationship to the US or USA and know this by virtue of Yick Wo v Hopkins.

As Creators, We have a lawful right to discipline or destroy Our creation, but prefer to control Our public servants by good faith application in law and order to preserve Our society.

We are not therefore "subject" to the IRS code or to Congress or state codes.

We can find no justification for the alleged debt; the IRS has informed Us of its intentions to collect a debt not owed, and therefore We view this action as a fraudulent attempt to force a signature upon a financial instrument under threat, duress and coercion to save our property and rights to property in this matter.

We have endured constant intentional injury at the hands of the IRS now trying to collect a debt that We have never agreed nor contracted to pay, nor can find any justification in the law that We should be liable for such alleged debt.

We know that slavery was outlawed many years ago, however we feel that organized elements of our society are attempting to enslave us without the law and by color of law.

Further, We are quite aware that bad things happen to property and rights to property of People who do not pay what and when They are told to pay by the IRS an organized artificial entity controlled by a mob of officers and employees.

We are therefore finding the IRS in default of its ministerial duty to answer our correspondence. We are forced by IRS, to bring this matter to final judgment upon this controversy by law.

Further affiant saith naught.

We, Anthony L. Montone and Nicole H. Montone, knowing the penalty of bearing false witness, hereby affirm the foregoing to be true and correct to the best of our knowledge and belief and do affix our signature in testimony of the foregoing complaint.

EXECUTED THIS 27<sup>TH</sup> day of FEBRUARY, 2004.

Anthony L. Montone  
Anthony L. Montone

Nicole H. Montone  
Nicole H. Montone

Anthony L. Montone  
Anthony L. Montone- executed before Notary  
Sui Juris

On this 27<sup>th</sup> day of February 2004, the signatory, Anthony L. Montone Sui Juris, personally appeared before me and is known to me and did affix his signature to this document. In witness thereof I set my hand and seal:

Notary Public in and for the State of New York  
Residing at: 405 Stoney Way Farmington, NY 14425  
My commission expires: 5/21/07

Kelly A. Cochrane  
Enclosed: Copy of Letter 3164B (DO)

KELLY A. COCHRANE  
Notary Public, State Of New York  
Ontario County Reg #01CO6058939  
Commission Expires 05/21/07

CORPORATE PLACE

Case 6:04-mc-06005-MAT Document 1 Filed 04/08/04 Page 31 of 77

255 EAST AVE

ROCHESTER, NY 14604

Letter Number: 3164B (DO)

Letter Date:

02/18/2004

Social Security Number or

Employer Identification Number:

129-52-0225N

For Assistance You May Call Us At:

(585)262-1139

Person to Contact:

DEBORAH J PRUTZMAN

Employee Identification Number:

16-00809

ANTHONY L &amp; N A H MONTONE

258 PRINCETON RD

WEBSTER, NY 14580-1469

COPY

Dear ANTHONY L &amp; N A H MONTONE :

We are attempting to collect unpaid taxes from you. You should already be aware of this from our previous contacts with you. Generally, our practice is to deal directly with a taxpayer or a taxpayer's duly authorized representative. However, we sometimes talk with other persons, for example when we need information that the taxpayer has been unable to provide, or to verify information we have received.

We are writing to tell you that we may contact other persons. If we do contact other persons we will generally need to tell them limited information, such as your name. The law prohibits us from disclosing any more information than is necessary to obtain or verify the information we are seeking. Our need to contact other persons may continue as long as there is activity on this matter.

If you have any questions regarding this letter or wish to request a list of contacts, please do not hesitate to contact us at the telephone number listed above.

Sincerely,

DEBORAH J PRUTZMAN  
REVENUE OFFICER



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### Current Status

You entered 7003 1680 0004 1375 3077

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02/27/04

Sent To

IRS

Street, Apt. No.,  
or PO Box No.

P.O. BOX 245

City, State, ZIP+4

BENSALAM, PA 19020

PS Form 3800, June 2002

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## Track & Confirm

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For delivery information visit our website at <a href="http://www.usps.com">www.usps.com</a>		
OGDEN, UT 84201		
Postage	\$ 0.60	UNIT ID: 0564
Certified Fee	2.30	Postmark Here
Return Receipt Fee (Endorsement Required)		Clerk: KC560J
Restricted Delivery Fee (Endorsement Required)		02/27/04
Total Postage & Fees	\$ 2.90	
Sent To: IRS - DEPT OF TREASURY @ OF D.L. PARIZEK		
Street, Apt. No. or PO Box No. 1973 NORTH RULON WHITE BLVD.		
City, State, ZIP+4 OGDEN, UT 84201		
PS Form 3800, June 2002		See Reverse for Instructions



## Track & Confirm

### Current Status

You entered 7003 1680 0004 1375 3053

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ROCHESTER, NY 14604

Postage	\$ 0.60
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Total Postage & Fees	\$ 2.90

UNIT ID: 0564

Postmark  
Here

Clerk: RC560J

02/27/04

Sent To

INTERNAL REVENUE SERVICE

Street, Apt. No.,  
or PO Box No. DEBORAH J PRUTZMAN

City, State, ZIP+4 CORPORATE PLACE  
255 EAST AVE  
ROCHESTER, NY 14604

PS Form 3800, June 2002

See Reverse for Instructions

7003 1010 0000 0548 9893

7003 1010 0000 0548 9886

7003 1010 0000 0548 9879

EXHIBIT E

CERTIFIED MAIL #

Anthony L. Montone  
Nicole H. Montone

**EMERGENCY FIRST AMENDMENT  
DEFAULT COMPLAINT FOR  
FINAL DEFAULT, 10 DAY NOTICE TO CURE**

v.

Internal Revenue Service  
Mr. D.L. Parizek  
Ms. Deborah J. Prutzman  
Jointly, individually and personally

Regarding tax year 2002, and Letter 3164B (DO) attached, from Revenue Officer Deborah J. Prutzman to Anthony L. and Nicole H. Montone, the following statements are true.

For over eight months We have communicated by Certified Mail correspondence with the IRS on this matter without answers to Our correspondence and have now received a letter from Deborah J. Prutzman indicating that IRS collections will occur, threatening Our property and rights to property. Therefore We must formally complain under Our First Amendment and Pendant State Right to Redress and seek final judgment in this controversy as a matter of law.

On 7/1/03 and again on 1/22/04 We sent a request for any documents or conference to Mr. D.L. Parizek, in the Ogden Utah Office (Examination Branch Unit) demanding any documents in the system of records which would demonstrate "that the undersigned is a party to any social compact or contract which can be demonstrated to operate to confer any contractual, controlling, insurable, lawful, legal, pecuniary, regulatory, or any other interest in the being and/or property of the undersigned to the benefit of the US or USA or state, inclusive of it's aforementioned affiliates, agencies, agents, assignees, creditors, employees, franchisees, representatives, and servants, etc."

On 1/2/04 and again on 1/22/04 We sent a request for any documents or conference to the Internal Revenue Service, Bensalem Pennsylvania Office (from whom we have received threatening letters) which would demonstrate "that the undersigned is a party to any social compact or contract which can be demonstrated to operate to confer any contractual, controlling, insurable, lawful, legal, pecuniary, regulatory, or any other interest in the being and/or property of the undersigned to the benefit of the US or USA or state, inclusive of it's aforementioned affiliates, agencies, agents, assignees, creditors, employees, franchisees, representatives, and servants, etc."

On 2/19/04 We sent a request for any documents or conference to Deborah J. Prutzman, in the Rochester New York IRS Office which would demonstrate "that the undersigned is a party to any social compact or contract which can be demonstrated to operate to confer any contractual, controlling, insurable, lawful, legal, pecuniary, regulatory, or any other interest in the being and/or property of the undersigned to the benefit of the US or USA or state, inclusive of it's aforementioned affiliates, agencies, agents, assignees, creditors, employees, franchisees, representatives, and servants, etc."

To date, we have received no relevant response from anyone regarding our letters or FOIAs and by your inactions you have injured and placed Us in a desperate situation as you move to collect a created debt that We are not liable for and do not owe, therefore;

**YOU ARE IN DEFAULT.**

In GOOD FAITH, We are giving the IRS 10 (TEN) days to cure the default or we will reduce the controversy to **final default judgment against IRS for want of a plea.**

Due to the seriousness of your default in this matter, please arrange for your **reply in this matter to be delivered to Us within 10 (TEN) days of your receipt of this letter.**

You have in bad faith **denied our right to due process** by default upon your ministerial duty to answer correspondence in our attempt to show that the IRS is in error on this matter. We have attempted to secure evidence that the IRS has subject matter or rem jurisdiction in this matter, and cannot find any such lawful evidence.

**COMMON LAW OF THE LAND**

In The Case of the Tailors, Coke wrote again that at the common law, no man could be prohibited from working in any lawful trade, for the law abhors idleness, the mother of all evil . . . especially in young men, who ought in their youth, (which is their seed time) to learn lawful sciences and trades, which are profitable to the commonwealth, and whereof they might reap the fruit in their old age, for idle in youth, poor in age; and therefore the common law abhors all monopolies, which prohibit any from working in any lawful trade. 77 Eng. Rep. 1218 [1615], at 1218

"...the one great principle conferred upon the citizens of the United States, to wit, the right to pursue any lawful business or vocation in any manner not inconsistent with the equal rights of others which may increase their prosperity or develop their faculties so as to give them the highest enjoyment, ..." *May v. People*, 27 P. 1010, at 1012 Colorado 1891

"The individual, unlike the corporation, cannot be taxed for the mere privilege of existing. The corporation is an artificial entity which owes its existence and charter powers to the state; but the individuals' Right to live and own property are natural rights for the enjoyment of which an excise cannot be imposed." *Corn v. Fort*, 95 S.W.2d 620 (1936)

"Also it is incumbent upon the party who infringes upon this right to supply the burden of proof in it's defense", *Busey v. District of Columbia*, 78 AppDC 189. See, also *Sherar v. Cullen*, 481 F 945.

*Wynehamer v. People*, 13 N.Y. 378 (1856), quoting " *Taylor v. Porter* (4 Hill, 145), said: "The words 'law of the land,' as here used, do not mean a statute passed for the purpose of working the wrong. That construction would render the restriction absolutely nugatory, and turn this part of the constitution into mere nonsense." And again: "The meaning of the section, then, seems to be, that no member of the state shall be disfranchised of any of his rights and privileges, unless the matter be adjudged against him upon trial had according to the course of the common law. It must be ascertained judicially that he has forfeited his privileges; or that some one else has a superior title to the property he possesses, before either of them can be taken from him. It cannot be done by mere legislation." Again he adds, speaking of the words "due process of law:" "If the legislature can take the property of A, and give it to B, they can take A himself and either shut him up in prison, or put him to death. But none of these things can be done by mere legislation."

**"If a question is raised regarding the recognition of a taxpayers right to due process of law, the issue should be resolved before proceeding with collection. Violation of a taxpayers clearly established CONSTITUTIONAL RIGHTS could expose a collector (IRS Agent) to PERSONAL LIABILITY".** *Davis v. Scherer*, 468 US 183, 1984

**"The law requires proof of jurisdiction to appear on the record of the administrative agency and all administrative proceedings."** *Hagans v. Lavine* 415 US 533

**"Sovereignty itself is, of course, not subject to law, for it is the author and source of law; but in our system, while sovereign powers are delegated to the agencies of government, sovereignty itself remains with the people, by whom and for whom all government exists and acts. And the law is the definition and limitation of power. For, the very idea that man may be compelled to hold his life, or the means of living, or any material right essential to the enjoyment of life, at the mere will of another, seems to be intolerable in any country where freedom prevails, as being the essence of slavery itself."** *Yick Wo v Hopkins*, 118 US 356, 370

## **DEMAND for PLAIN, SPEEDY, ADEQUATE REMEDY AT LAW**

**We demand that the IRS immediately respond to this default by:**

1. IRS correcting any errors in law of any of its records, Our letters or this complaint.
2. Relevant response to the aforementioned letter for specific documents showing a lawful interest in Our being or property (subject matter and rem jurisdiction).
3. Photocopy of any case which has overturned *Yick Wo v. Hopkins*, and any notorious law which would work specifically upon Anthony L. Montone and Nicole H. Montone to make "subject" to the Federal IRC or it's regulations (personal jurisdiction), AND,
4. Photocopy of any "Congressional statute at large" which by clear and express language abrogates the common law right to earn a living, obtain, control and enjoy property without infringement of such right. AND,
5. This also constitutes a demand for the return of all property taken without jurisdiction and authority of real law upon final default, for which such property or right to property record exists.

Failure to relevant response to this complaint within 10 (TEN) days after Certified Mail date of this letter by ministerial duty, will constitute a final default and judgment in favor of Anthony L. Montone and Nicole H. Montone against the IRS and

Will be tacit agreement that Anthony L. Montone and Nicole H. Montone are not liable nor have a duty by subjective law for any IRS created alleged debt assessment and bill, which is an error, void and is thus not enforceable.

Failure to respond will latch and bar any assertion of any lawful evidence of personal, subject matter or rem jurisdiction of the alleged debt at a later time. The law of latches and bars will apply to any judicial proceedings civil or criminal. We insist on our right to be left alone.

### **AFFIDAVIT**

State of New York        }  
                                      } ss: Anthony L. Montone  
County of Monroe        }     Nicole H. Montone

I, Anthony L. Montone and I, Nicole H. Montone, (recognized as one through Our

Creator God by Holy Matrimony), Sui Juris, hereafter We, and competent to testify by first hand knowledge do hereby affirm that:

We live at 258 Princeton Road, Webster, New York and are New York Citizens.

We have never knowingly or intentionally represented ourselves as "ANTHONY L MONTONE and NICOLE H MONTONE" and to our knowledge it is impossible to form a signature in all caps.

We are not officers, employees, or elected officials of any government, Indians or mariners, nor have a trade or business effectively coupled to the US.

We are not aware of having received any estate or gift income, nor income from any US source.

We have endeavored over the eight months to correct the IRS record or determine a true and lawful duty or liability for this alleged debt and have been hampered by lack of personal correspondence denying Our rights to due process.

On or about 7/1/03 and 1/2/04 and 1/22/04 and again on 2/19/04 We sent a Certified Mail request for documents in a last attempt to see if there was any possible record of a real lawful debt that we could be liable for by some unknown thread of liability or duty.

Having exhausted our avenues to seek to correct any misinformation the IRS has about our alleged duty or liability, their default shows no lawful duty or liability for their created and alleged debt.

We do not owe the IRS, US Treasury, or any other government entity any debt, nor property, or rights to property.

In good faith We have tried to show the IRS that we do not owe a debt or duty to any government entity, and We are not liable for the debt IRS has created.

We are the Creators of Government and stand Superior in relationship to the US or USA and know this by virtue of Yick Wo v Hopkins.

As Creators, We have a lawful right to discipline or destroy Our creation, but prefer to control Our public servants by good faith application in law and order to preserve Our society.

We are not therefore "subject" to the IRS code or to Congress or state codes.

We can find no justification for the alleged debt; the IRS has informed Us of its intentions to collect a debt not owed, and therefore We view this action as a fraudulent attempt to force a signature upon a financial instrument under threat, duress and coercion to save our property and rights to property in this matter.

We have endured constant intentional injury at the hands of the IRS now trying to collect a debt that We have never agreed nor contracted to pay, nor can find any justification in the law that We should be liable for such alleged debt.

We know that slavery was outlawed many years ago, however we feel that organized elements of our society are attempting to enslave us without the law and by color of law.

Further, We are quite aware that bad things happen to property and rights to property of People who do not pay what and when They are told to pay by the IRS an organized artificial entity controlled by a mob of officers and employees.

**We are therefore finding the IRS in default. We are forced by IRS, to bring this matter to final judgment upon this controversy by law, for want of a plea.**

Further affiant saith naught.

We, Anthony L. Montone and Nicole H. Montone, knowing the penalty of bearing false witness, hereby affirm the foregoing to be true and correct to the best of our knowledge and belief and do affix our signature in testimony of the foregoing complaint.

EXECUTED THIS 25<sup>th</sup> day of March 2004

Anthony Montone  
Anthony L. Montone

Nicole Montone  
Nicole H. Montone

Anthony Montone  
Anthony L. Montone- executed before Notary  
Sui Juris

On this 25 day of March 2004, the signatory, Anthony L. Montone Sui Juris, personally appeared before me and is known to me and did affix his signature to this document. In witness thereof I set my hand and seal.

Christine Kester

Notary Public in and for the State of NEW YORK  
Residing at: 602 Rowley Rd Victor NY 14564  
My commission expires: 6/2/07

Enclosed: Copy of Letter 3164B (DO)

Christine Kester  
Notary Public, State of New York  
No. 01KE6093245  
Monroe County



Internal Revenue Service

CORPORATE PLACE

255 EAST AVE

ROCHESTER, NY 14604

Letter Number: 3164B (DO)

Letter Date:

02/18/2004

Social Security Number or

Employer Identification Number:

129-62-0225N

For Assistance You May Call Us At:

(585)262-1139

Person to Contact:

DEBORAH J PRUTZMAN

Employee Identification Number:

16-00809

ANTHONY L & N A H MONTONE  
258 PRINCETON RD  
WEBSTER, NY 14580-1469

COPY

Dear ANTHONY L &amp; N A H MONTONE :

We are attempting to collect unpaid taxes from you. You should already be aware of this from our previous contacts with you. Generally, our practice is to deal directly with a taxpayer or a taxpayer's duly authorized representative. However, we sometimes talk with other persons, for example when we need information that the taxpayer has been unable to provide, or to verify information we have received.

We are writing to tell you that we may contact other persons. If we do contact other persons we will generally need to tell them limited information, such as your name. The law prohibits us from disclosing any more information than is necessary to obtain or verify the information we are seeking. Our need to contact other persons may continue as long as there is activity on this matter.

If you have any questions regarding this letter or wish to request a list of contacts, please do not hesitate to contact us at the telephone number listed above.

Sincerely,

DEBORAH J PRUTZMAN  
REVENUE OFFICER



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### Current Status

You entered 7003 1010 0000 0548 9879

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Postage	\$ 0.60
Certified Fee	2.30
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 2.90

UNIT ID: 0564

Check: KRC4PJ

03/26/04

Sent To

IRS, DEPT. OF THE TREASURY

Street, Apt. No., or PO Box No. MR. D.L. PARIZEK

1973 NORTH RULON WHITE BLVD.

City, State, ZIP+4

OGDEN, UT 84021

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ROCHESTER, NY 14604

Postage	\$ 0.60
Certified Fee	2.30
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 2.90

UNIT ID: 0564

Postmark

Clerk: KRCAP3

03/26/04 USPS

Sent To  
**IRS @ DEBORAH J PRUTZMAN**  
Street, Apt. No.,  
or PO Box No. **CORPORATE PLACE**  
**255 EAST AVE**  
City, State, ZIP+4  
**ROCHESTER, NY 14604**

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## Track & Confirm

### Current Status

You entered 7003 1010 0000 0548 9886

Your item was delivered at 7:53 am on March 31, 2004 in BENSALEM, PA 19020.

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Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 2.90
UNIT ID: 0564	
Postmark Here	
Clerk: KRC4PS	
03/26/04	
Sent To: INTERNAL REVENUE SERVICE	
Street, Apt. No., or PO Box No. P.O. BOX 245	
City, State, ZIP+4 BENSALEM, PA 19020	
PS Form 3800, June 2002	
See Reverse for Instructions	

Anthony L. and Nicole H. Montone  
258 Princeton Road  
Webster, NY 14580

EXHIBIT F

NYS Dept. of Taxation and Finance  
@ of Sean O'Connor  
Audit Division-Income/Franchise Desk-AG 15  
W A Harriman State Campus  
Albany, NY 12227-0001

CERTIFIED MAIL # 7003 1680 0004 1375 4999

Date: January 22, 2004

Please make this request a permanent record of our file.

Subject: Common law, FOIA, and PA, **Formal Request for the Revelation of venue, jurisdiction and authority and request for a due process hearing.**

Scope: All Documents demonstrating any US or USA and/or state, and New York State (hereinafter NYS) **venue/jurisdiction/authority and all such interests in or over the being or property of the undersigned (requester).**

Authority: Common law, FOIA and PA. LWIN V. I.N.S., 144 F3d 505 (7th Cir. 1998)  
***"Agencies must respond to the arguments made to them."***

#### DOCUMENTS REQUESTED

COPIES OF ALL DOCUMENTS that are in your possession, under your control, or within your system of records, such documents demonstrating that the undersigned is a party to any social compact or contract which can be demonstrated to operate to confer any contractual, controlling, insurable, lawful, legal, pecuniary, regulatory, or any other interest in the being or property of the undersigned to the benefit of the US or USA or state and NYS, inclusive of it's aforementioned affiliates, agencies, agents, assignees, creditors, employees, franchisees, representatives, and servants, etc.

**Forward any documents that verify the undersigned is within the venue and jurisdiction or authority of ANY "Federal" agency. If the undersigned is NOT under the venue and jurisdiction or authority of any Federal agency then we are not under venue and jurisdiction or authority of New York State Consolidated Law Article 22 in accordance with §607 and the supporting NYCRR.**

Note: "Federal" was defined in the Constitutional Convention as a government only having power to operate upon the several states.

This was verified by the cases of US v Lopez, 115 S.Ct.1624 and Hagans v Levine, 415 US 528 at 533.

*"The Framers of the First Amendment 'did not trust any government to separate the true from the false for us.' (Kleindienst v. Mandel, 408 U.S. 753, 773 (1972) (quoting Thomas v. Collins, 323 U.S. 516, 545 (Jackson, J., concurring)), and 'They protected the people against secret government.' (Detroit Free Press v. Ashcroft, 195 F. Supp. 2d 937).*

**IF THERE ARE NO DOCUMENTS**, that are responsive to document the request, **so indicate, in your written response.**

If any documents are CODED with other than the plain English language, such that an ordinary publicly high school educated Citizen could not effectively read the context thereof, then these documents must be decoded to ordinary English.

1. Documents demonstrating that the undersigned is a citizen of the United States, or USA and/or the state and NYS.
2. Documents demonstrating that the undersigned owes any allegiance to The United States or USA and/or the state and NYS.
3. Documents of any Power(s) of Attorney or Appointment, such power(s) of attorney or appointment executed by the undersigned authorizing any party to create any debt or obligation on behalf of the undersigned, where any such debt would operate so as to cause the undersigned to become a third-party obligor upon such representative-created debt.
4. Documents demonstrating the undersigned have voluntarily agreed to underwrite any Public (government) debt of The United States or USA or state or NYS as a third-party obligor thereto.
5. Documents demonstrating that the undersigned is subject to the venue and/or jurisdiction of your NYS Constitution, US Code, US Regulations, any rules, policy or custom of the US or USA, or NYS Code, NYS Regulations, any rules, policy or custom of NYS.

Note: *"Sovereignty itself is, of course, not subject to law, for it is the author and source of law;" (Yick Wo v. Hopkins, 118 US 356, 370) and "The law requires proof of jurisdiction to appear on the record of the administrative agency and all administrative proceedings" (Hagans v. Lavine, 415 U.S. 528)*

6. Documents demonstrating any lawfully acquired United States, state or any government (NYS) interest(s) undersigned, his being, or his property.
7. Documents demonstrating any lawfully acquired United States or state or NYS, jurisdiction (personal or rem) over the undersigned, his being, or his property.
8. Documents demonstrating that the undersigned is subject to the jurisdiction of the Congress, Executive, or Judicial Branch of the US or USA in any manner or subject to the jurisdiction of the NYS Dept. of Taxation and Finance.

9. Documents demonstrating that any provisions set forth in the Constitution of the United States or Bill of Rights have been either superseded, suspended, or abolished for any reason, whatsoever and documents demonstrating that any provisions set forth in the NYS Constitution have been superseded, suspended or abolished.
10. Documents demonstrating that the Congress of The United States or the USA has delegated its authority to lay and collect a tax to the agency known as the IRS, from which NYS has adopted its "meaning of terms" (§607).  
Note: The Doctrine of Separation of Powers forbids this.
11. Documents demonstrating that the undersigned is a "Person, Individual, or taxpayer" as defined under IRC or its regulations.
12. Documents demonstrating that the undersigned is engaged in any criminal activity, "Interstate commerce or has a trade or business effective connected with the United States" or is an officer of a corporation, government official, mariner, Indian, officer, employee, subject or elected official of the US or USA or NYS.
13. Documents demonstrating that the undersigned is not entitled to refunds of taxes erroneously withheld from his payment for labor performed by him for himself for all years of record.
14. Documents demonstrating that the undersigned is subject to withholding or that the payor filing any information reports is an authorized appointed withholding agent.
15. Documents demonstrating any default at law of the undersigned.
16. Documents demonstrating any authority to SFR a 1040 Form or NYS IT201 Form or tax.
17. Documents upon which any deficiency is based and any forms 1120, 2209, 3614, 4089, 5471, 5172, 5344, 4549, 1902, 4666, 895, 3198, 5278, 5546, any variety of the foregoing forms or suffix variations.
18. Documents or case cites of authority that would indicate that any of the following not all inclusive rights have been abrogated by notorious intent by any Statute at Large or any session law:

Law of the Land right to question venue, jurisdiction, authority or abuse of public office.

Law of the Land right to earn a living.

Law of the Land right to acquire property.

Law of the Land right to be secure in property.

Law of the Land right to control property.

Law of the Land right to not be subject to Bill of Pains and Penalties.

Law of the Land right to not be subject to Corruption of Blood.

Law of the Land right to be left alone.

## DOCUMENTS AND/OR RECORDS NOT BEING SOUGHT

At this time, the undersigned is NOT seeking documents and /or records containing any manner of writing which cannot be associated with, which is not pertaining to, or which cannot otherwise be identified with the undersigned, either directly or indirectly.

## SECRET DOCUMENTS AND/OR RECORDS

If some of those requested documents and/or records are allegedly exempt from release by the agency, please send the undersigned those portions that are reasonably separable, and provide the undersigned with an indexing, itemization, and detailed justification for withholding such documents from disclosure under common law.

## EXPECTATIONS

The undersigned expects those requested documents and/or records to be organized in an intelligible manner, and referenced or indexed to the aforementioned paragraphs one through eighteen. Any coded documents must be supplied with copies of appropriate cipher of codes as well as the decoded document to ordinary English language.

## APPROPRIATE RECIPIENT

If this request for documents and/or records is improperly addressed to you in your official capacity, **please forward to the appropriate person, thereafter immediately informing the undersigned of such forwarding**, inclusive of such appropriate person's name, title, mailing address with the correct postal zone, and with the date of origin and location of such forwarding action.

## CAVEAT

The undersigned fully expects a prompt response to this request with a reasonable expectation of two weeks. If there is any delay in response, then any pending administrative action in this case must be stayed till such documentation is delivered and a reasonable time given to inspect such documents for evidence of Fraud, Venue, Jurisdiction and Authority.

**Any refusal to disclose such documents, computer codes, or proof of venue jurisdiction will be grounds for estoppel in any redress court action and foundational grounds for ex parte suits. Silence is equated with default and fraud.**

## CERTIFICATION

We, Anthony L. Montone and Nicole H. Montone (herein after I) recognized by our Creator as one through holy marriage, Sui Juris, and the Sovereigns spoken of in the *Yick Wo* case, **not** an officer, employee, elected official, corporate officer, mariner, Indian, nor ward of the United States or USA or NYS do hereby declare, affirm and certify:



1. That I receive my written communications in care of: 258 Princeton Road, Webster, New York 14580.
2. That I am lawfully authorized and legally empowered to make this document request on my own behalf under the law of the land.
3. That because of injury threats, duress, and coercion, I have a substantial interest in the documents and/or records being sought herein to lay a legal foundation for suit.
4. That I have a legal right to require that this Formal squarely challenged venue/jurisdiction Request for the Production of Documents be answered promptly to prevent further injury to this man/woman.
5. That any failure to answer this Formal Request promptly, will further jeopardize, injure and damage my rights to happiness, liberty and property, as I am under threat of unlawful seizure.
6. That these requested documents and/or records are for my use and can be used against public servants, STATE, IRS, US, USA or NYS in a court of competent jurisdiction.
7. That I request a due process hearing on this matter within two weeks, an extension of time in which to file a tax court petition on the proposal and stay of proceedings. If no such hearing is granted or time extended, this will be ground for lack of due process.
8. That I declare under the penalty of bearing false witness in front of my Creator, that the foregoing Certification is accurate, true and correct to the best of my knowledge.

EXECUTED THIS 22<sup>nd</sup> day of January 2004.

Anthony L. Montone  
Anthony L. Montone

Nicole H. Montone  
Nicole H. Montone

Anthony L. Montone  
Anthony L. Montone - executed before Notary  
Sui Juris DL132198335

On this 26<sup>th</sup> day of JAN 2004, the signatory, Anthony L. Montone Sui Juris, personally appeared before me and is known to me and did affix his signature to this document. In witness thereof I set my hand and seal:

Notary Public in and for the State of NEW YORK  
Residing at: NORTH ROSE NY  
My commission expires: 4-18-2006

SHARON E. WILSON #4927004  
Notary Public, State of New York  
Qualified in Wayne County  
My Commission Expires Apr. 18, 2006

Enclosed: copy- 1<sup>st</sup> page of DTF-960 audit ID: X380434184



DOCUMENT NUMBER: 61417721

DATE: 11/17/03

ASSESSMENT ID: L-023224644-3

TOTAL AMOUNT DUE: \$685.31

PAYMENT DUE DATE: 12/08/03

## STATEMENT OF PROPOSED AUDIT CHANGES

MONTONE-ANTHONY L  
HAY-NICOLE A  
258 PRINCETON RD  
WEBSTER, NY 14580-1469

TAXPAYER ID: P-12-9520225-8

SPOUSE ID: P-07-4747863-6

TAX TYPE: Personal Income

TAX ARTICLE: 22

AUDIT ID: X380434184

FUNCTION CODE: CNW

### TAXPAYER'S COMPLETE LEGAL NAME

MONTONE-ANTHONY L

### EXPLANATION AND INSTRUCTIONS

Based on an audit, an additional amount is due for the Tax Type indicated above. Please refer to the COMPUTATION SECTION and/or COMPUTATION SUMMARY SECTION for the tax period(s) affected, the reason(s) for the additional amount due and a computation of the balance due.

YOU MUST complete the enclosed Payment Document whether you AGREE or DISAGREE with this STATEMENT OF PROPOSED AUDIT CHANGES.

IF YOU AGREE with the amount due, sign the Consent To Findings Section and complete the Payment Application Section. If you cannot send the total amount due, a partial payment will reduce the basis on which additional penalty and/or interest is computed. You will receive a bill for the remaining balance due.

IF YOU AGREE with some of the adjustments, a partial payment will reduce the basis on which additional penalty and/or interest is computed. Complete the Payment Application Section for the amount you agree is due. Complete the Disagreement With Findings Section for the amount you disagree with. Attach a written explanation stating your reason(s) for disagreement. We will review your explanation and advise you of our findings.

IF YOU DISAGREE with the amount due, complete the Disagreement With Findings Section and attach a written explanation stating your reason(s) for disagreement. We will review your explanation and advise you of our findings.

Refer to the Instructions on the Payment Document for returning that form.

Interest and any applicable penalty(s) will continue to be added to the total amount due unless full payment is made by the payment due date.

If we do not receive a response to this notice by 12/17/03:

Collection proceedings for the amount shown due will be commenced by issuing a NOTICE OF DEFICIENCY.

(CONTINUED ON BACK)



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For delivery information visit our website at <a href="http://www.usps.com">www.usps.com</a>		
ALBANY, NY 12227		
Postage	\$ 0.60	UNIT ID: 0584  Clerk: KC5603 01/27/04
Certified Fee	2.30	
Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		
Total Postage & Fees	\$ 2.90	
Sent To: NYS DEPT. OF TAXATION + FINANCE @ SEAN O'CONNOR Street, Apt. No., or PO Box No.: AUDIT DIV. INCOME / FRANCISE City, State, ZIP+4: WA HARRIMAN ST. CAMPUS ALBANY, NY 12227-0001		
PS Form 3800, June 2002		See Reverse for Instructions

7003 1680 0004 1375 3039

7003 1680 0004 1375 3022

EXHIBIT G

CERTIFIED MAIL #

Anthony L. Montone  
Nicole H. Montone

**FIRST AMENDMENT**  
**v. COMPLAINT FOR REDRESS AND DEMAND**

**N.Y.S. Dept. of Taxation and Finance**  
**N.Y.S. Assessment Receivables**  
**Sean O'Connor**  
**Jointly, individually, and personally**

Regarding tax year 2002, and Letter DTF-962F attached, from the N.Y.S. Dept. of Taxation and Finance to Anthony L. and Nicole H. Montone, the following statements are true.

For over ten months We have communicated by Certified Mail correspondence with the N.Y.S. Dept. of Taxation and Finance on this matter without relevant answers to Our correspondence and have now received a NOD from the N.Y.S. Dept. of Taxation indicating that collections will occur, threatening Our property and rights to property, therefore We must formally complain under Our First Amendment and Pendant State Right to Redress and seek final judgment in this controversy as a matter of law.

On 12/10/03 We sent a request for any documents or conference to the N.Y.S. Assessment Receivables demanding any documents in the system of records which would demonstrate "that the undersigned is a party to any social compact or contract which can be demonstrated to operate to confer any contractual, controlling, insurable, lawful, legal, pecuniary, regulatory, or any other interest in the being and/or property of the undersigned to the benefit of the US or USA or state, inclusive of it's aforementioned affiliates, agencies, agents, assignees, creditors, employees, franchisees, representatives, and servants, etc."

On 1/22/04 We sent a request for any documents or conference to Sean O'Connor in the Audit Division (from whom we have received threatening letters) which would demonstrate "that the undersigned is a party to any social compact or contract which can be demonstrated to operate to confer any contractual, controlling, insurable, lawful, legal, pecuniary, regulatory, or any other interest in the being and/or property of the undersigned to the benefit of the US or USA or state, inclusive of it's aforementioned affiliates, agencies, agents, assignees, creditors, employees, franchisees, representatives, and servants, etc."

To date, we have not received any **relevant response** from anyone and by your inactions you have injured and placed Us in a desperate situation as you move to collect a created debt that We are not liable for and do not owe, therefore;

You have in bad faith denied our right to due process by default upon your ministerial duty to answer correspondence in our attempt to show that the N.Y.S. Dept. of Taxation is in error on this matter. We have attempted to secure evidence that the N.Y.S. Dept. of Taxation has subject matter or rem jurisdiction in this matter, and cannot find any such lawful evidence.

## COMMON LAW OF THE LAND

In The Case of the Tailors, Coke wrote again that at the common law, no man could be prohibited from working in any lawful trade, for the law abhors idleness, the mother of all evil . . . especially in young men, who ought in their youth, (which is their seed time) to learn lawful sciences and trades, which are profitable to the commonwealth, and whereof they might reap the fruit in their old age, for idle in youth, poor in age; and therefore the common law abhors all monopolies, which prohibit any from working in any lawful trade. 77 Eng. Rep. 1218 [1615], at 1218.

"...the one great principle conferred upon the citizens of the United States, to wit, the right to pursue any lawful business or vocation in any manner not inconsistent with the equal rights of others which may increase their prosperity or develop their faculties so as to give them the highest enjoyment, ..." *May v. People*, 27 P. 1010, at 1012 Colorado 1891

"The individual, unlike the corporation, cannot be taxed for the mere privilege of existing. The corporation is an artificial entity which owes its existence and charter powers to the state; but the individuals' Right to live and own property are natural rights for the enjoyment of which an excise cannot be imposed." *Corn v. Fort*, 95 S.W.2d 620 (1936)

"Also it is incumbent upon the party who infringes upon this right to supply the burden of proof in it's defense", *Busey v. District of Columbia*, 78 AppDC 189. See, also *Sherar v. Cullen*, 481 F 945.

*Wynehamer v. People*, 13 N.Y. 378 (1856), quoting " *Taylor v. Porter* (4 Hill, 145), said: "The words 'law of the land,' as here used, do not mean a statute passed for the purpose of working the wrong. That construction would render the restriction absolutely nugatory, and turn this part of the constitution into mere nonsense." And again: "The meaning of the section, then, seems to be, that no member of the state shall be disfranchised of any of his rights and privileges, unless the matter be adjudged against him upon trial had according to the course of the common law. It must be ascertained judicially that he has forfeited his privileges, or that some one else has a superior title to the property he possesses, before either of them can be taken from him. It cannot be done by mere legislation." Again he adds, speaking of the words "due process of law:" "If the legislature can take the property of A, and give it to B, they can take A himself and either shut him up in prison, or put him to death. But none of these things can be done by mere legislation."

**"If a question is raised regarding the recognition of a taxpayers right to due process of law, the issue should be resolved before proceeding with collection. Violation of a**

taxpayers clearly established CONSTITUTIONAL RIGHTS could expose a collector (N.Y.S. Agent) to PERSONAL LIABILITY". *Davis v. Scherer*, 468 US 183, 1984

"The law requires proof of jurisdiction to appear on the record of the administrative agency and all administrative proceedings." *Hagans v. Lavine* 415 US 533

"Sovereignty itself is, of course, not subject to law, for it is the author and source of law; but in our system, while sovereign powers are delegated to the agencies of government, sovereignty itself remains with the people, by whom and for whom all government exists and acts. And the law is the definition and limitation of power. For, the very idea that man may be compelled to hold his life, or the means of living, or any material right essential to the enjoyment of life, at the mere will of another, seems to be intolerable in any country where freedom prevails, as being the essence of slavery itself." *Yick Wo v Hopkins*, 118 US 356, 370

### **DEMAND for PLAIN, SPEEDY, ADEQUATE REMEDY AT LAW**

**We demand that the N.Y.S. Dept. of Taxation immediately respond to this default by:**

1. N.Y.S. Dept. of Taxation correcting any errors in law of any of its records, Our letters or this complaint.
2. Response to the aforementioned letter for specific documents showing a lawful interest in Our being or property (subject matter and rem jurisdiction).
3. Photocopy of any case which has overturned *Yick Wo v Hopkins*, and any notorious law which would work specifically upon Anthony L. Montone and Nicole H. Montone to make "subject" to the Federal IRC or it's regulations and Chapter 60 of the N.Y.S. Consolidated law (personal jurisdiction), AND,
4. Photocopy of any "legislative session law" which by clear and express language abrogates the common law right to earn a living, obtain, control and enjoy property without infringement of such right. AND,
5. This also constitutes a demand for the return of all property taken without jurisdiction and authority of real law upon final default, for which such property or right to property record exists.

Failure to provide a relevant response to this complaint within 20 (twenty) days after Certified Mail date of this letter by ministerial duty, will constitute a default and judgment in favor of Anthony L. Montone and Nicole H. Montone against the N.Y.S. Dept. of Taxation and Finance and;

Will be tacit agreement that Anthony L. Montone and Nicole H. Montone are not liable nor have a duty by subjective law for any N.Y.S. created alleged debt assessment and bill, which is an error, void and is not enforceable.

Failure to respond will latch and bar any assertion of any lawful evidence of personal, subject matter or rem jurisdiction of the alleged debt at a later time. The law of latches and bars will apply to any judicial proceedings civil or criminal. We insist on our right to be left alone.

### AFFIDAVIT

State of New York        }  
                                  } ss: Anthony L. Montone  
County of Monroe        }       Nicole H. Montone

I, Anthony L. Montone and I, Nicole H. Montone, (recognized as one through Our Creator God by Holy Matrimony), Sui Juris, hereafter We, and competent to testify by first hand knowledge do hereby affirm that:

We live at 258 Princeton Road, Webster, New York and are New York Citizens.

We have never knowingly or intentionally represented ourselves as "ANTHONY L MONTONE and NICOLE H MONTONE" and to our knowledge it is impossible to form a signature in all caps.

We are not officers, employees, or elected officials of any government, Indians or mariners, nor have a trade or business effectively coupled to the US or N.Y.S.

We are not aware of having received any estate or gift income, nor income from any US source or N.Y.S.

We have endeavored over the past ten months to correct the N.Y.S. Dept. of Taxation record or determine a true and lawful duty or liability for this alleged debt and have been hampered by lack of personal correspondence denying Our rights to due process.

On or about 12/10/03 and again on 1/22/04 We sent a Certified Mail request for documents in a last attempt to see if there was any possible record of a real lawful debt that we could be liable for by some unknown thread of liability or duty.

Having exhausted our avenues to seek to correct any misinformation the N.Y.S. Dept. of Taxation has about our alleged duty or liability, their defaults shows no lawful duty or liability for their created and alleged debt.

We do not owe the IRS, US Treasury, N.Y.S. Assessment Receivables, N.Y.S. Dept. of Taxation and Finance or any other government entity any debt, nor property, or rights to property.

In good faith We have tried to show the N.Y.S. Dept. of Taxation that we do not owe a debt or duty to any government entity, and We are not liable for the debt N.Y.S. has created.

We are the Creators of Government and stand Superior in relationship to the US or USA or N.Y.S. and know this by virtue of Yick Wo v Hopkins.

As Creators, We have a lawful right to discipline or destroy Our creation, but prefer to control Our public servants by good faith application in law and order to preserve Our society.

We are not therefore "subject" to the IRS code or to Congress or to the N.Y.S. codes.

We can find no justification for the alleged debt; the N.Y.S. Dept. of Taxation has informed Us of its intentions to collect a debt not owed, and therefore We view this action as a fraudulent attempt to force a signature upon a financial instrument under threat, duress and coercion to save our property and rights to property in this matter.

We have endured constant intentional injury at the hands of the N.Y.S. Dept. of Taxation now trying to proceed to collect a debt that We have never agreed nor contracted to pay, nor can find any justification in the law that We should be liable for such alleged debt.

We know that slavery was outlawed many years ago, however we feel that organized elements of our society are attempting to enslave us without the law and by color of law.

Further, We are quite aware that bad things happen to property and rights to property of People who do not pay what and when They are told to pay by the N.Y.S. Dept. of Taxation as an organized artificial entity controlled by a mob of officers and employees.



We are therefore finding the N.Y.S. Dept. of Taxation and Finance in default of its ministerial duty to answer our correspondence. We are forced by N.Y.S., to bring this matter to final judgment upon this controversy by law.

Further affiant saith naught.

We, Anthony L. Montone and Nicole H. Montone, knowing the penalty of bearing false witness, hereby affirm the foregoing to be true and correct to the best of our knowledge and belief and do affix our signature in testimony of the foregoing complaint.

EXECUTED THIS 27<sup>th</sup> day of FEBRUARY, 2004

Anthony L. Montone  
Nicole H. Montone  
Nicole H. Montone

Anthony L. Montone

Anthony L. Montone  
Anthony L. Montone - executed before Notary  
Sui Juris

On this 27<sup>th</sup> day of February, 2004, the signatory, Anthony L. Montone Sui Juris, personally appeared before me and is known to me and did affix his signature to this document. In witness thereof I set my hand and seal:

Notary Public in and for the State of New York  
Residing at: 405 Stony Way Farmington, CT  
My commission expires: 5/21/07

Kelly A. Cochrane

Enclosed: Copy of 1<sup>st</sup> page Letter DTF-962F

KELLY A. COCHRANE  
Notary Public, State Of New York  
Ontario County Reg #01CO6058939  
Commission Expires 05/21/ 07



DOCUMENT NUMBER: 61417721

DATE: 01/12/04

ASSESSMENT ID: L-023224644-3

TOTAL AMOUNT DUE: \$691.65

PAYMENT DUE DATE: 02/02/04

**NOTICE OF DEFICIENCY**

MONTONE-ANTHONY L  
HAY-NICOLE A  
258 PRINCETON RD  
WEBSTER, NY 14580-1469

TAXPAYER ID: P-12-9520225-8

SPOUSE ID: P-07-4747863-6

TAX TYPE: Personal Income

TAX ARTICLE: 22

AUDIT ID: X380434184

FUNCTION CODE: CNW

**TAXPAYER'S COMPLETE LEGAL NAME**

MONTONE-ANTHONY L

**EXPLANATION AND INSTRUCTIONS**

An additional amount is due for the Tax Type indicated above. The original notice sent to you on 11/17/03 showed the detailed computation of the additional amount due. Please refer to the COMPUTATION SUMMARY SECTION for a computation of the current balance due. Recent adjustments, credits or payments may not be reflected in the current balance due.

Please refer to the enclosed Payment Document for payment information, whether you AGREE or DISAGREE with this NOTICE OF DEFICIENCY.

IF YOU AGREE with the amount due, sign the Consent To Findings Section and complete the Payment Application Section. If you cannot send the total amount due, a partial payment will reduce the basis on which additional penalty and/or interest is computed. You will receive a bill for the remaining balance due.

IF YOU AGREE with some of the adjustments, a partial payment will reduce the basis on which additional penalty and/or interest is computed. Complete the Payment Application Section for the amount you agree is due. Refer to the enclosed Notice of Taxpayer Rights to determine your options.

IF YOU DISAGREE with the amount due, refer to the enclosed Notice of Taxpayer Rights to determine your options.

- To request a Conciliation Conference, complete the enclosed Request for Conciliation Conference (items 1 through 8) and return it in the envelope provided.
- To request a Petition for a Tax Appeals Hearing, form TA-10, follow the instructions on the enclosed Notice of Taxpayer Rights.
- Attach a photocopy of all pages of this notice to the Request for Conciliation Conference.

IF YOU DISAGREE because the amount due was already paid, complete the Payment Application Section and attach a photocopy of the front and back of your canceled check or money order (not the money order receipt).

(CONTINUED ON BACK)



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ALBANY, NY 12227

Postage	\$ 0.60	UNIT ID: 0564
Certified Fee	2.30	Postmark Here
Return Receipt Fee (Endorsement Required)		Clerk: KC560J
Restricted Delivery Fee (Endorsement Required)		02/27/04
Total Postage & Fees	\$ 2.90	

Sent To  
DEPT. OF TAXATION AND FINANCE

Street, Apt. No.,  
or PO Box No. ATT: OFFICE OF COUNSEL  
BUILDING 9, W.A. HARRISMAN CAMPUS  
City, State, ZIP+4  
ALBANY, NY 12227

PS Form 3800, June 2002

See Reverse for Instructions



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NEW YORK, NY 10087

Postage	\$ 0.60
Certified Fee	2.30
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 2.90

UNIT ID: 0564

Postmark  
Here

Clerk: KC560J

02/27/04

Sent To	N.Y.S. ASSESSMENT RECEIVABLES
Street, Apt. No., or PO Box No.	GENERAL POST OFFICE PO BOX 26823
City, State, ZIP+4	NEW YORK, NY 10087-6823

PS Form 3800, June 2002

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For delivery information visit our website at [www.usps.com](http://www.usps.com)

ALBANY, NY 12227

Postage	\$ 0.60
Certified Fee	2.30
Return Receipt Fee (Endorsement Required)	1.75
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 4.65

UNIT ID: 0564

Postmark  
Here

Clerk: KC5601

02/27/04

Send To

N.Y.S. DEPT. OF TAXATION - SEAN O'CONNOR

Street, Apt. No.,

or PO Box No. AUDIT DIVISION - WAHARRAMAN ST. CAMAR

City, State, ZIP+4

ALBANY, NY 12227-0001

PS Form 3800, June 2002

See Reverse for Instructions

7003 2260 0003 3904 3532

7003 2260 0003 3904 3631

7003 2260 0003 3904 3624

**CERTIFIED MAIL #**

EXHIBIT H

Anthony L. Montone  
Nicole H. Montone

**EMERGENCY FIRST AMENDMENT  
DEFAULT COMPLAINT FOR  
v. FINAL DEFAULT, 10 DAY NOTICE TO CURE**

N.Y.S. Dept. of Taxation and Finance (NYSDTF)  
N.Y.S. Assessment Receivables  
Sean O'Connor  
Jointly, individually, and personally

Regarding tax year 2002, and Letter DTF-962F attached, from the N.Y.S. Dept. of Taxation and Finance to Anthony L. and Nicole H. Montone, the following statements are true.

For over ten months We have communicated by Certified Mail correspondence with the N.Y.S. Dept. of Taxation and Finance on this matter without relevant answers to Our correspondence and have now received a NOD from the N.Y.S. Dept. of Taxation indicating that collections will occur, threatening Our property and rights to property, therefore We must formally complain under Our First Amendment and Pendant State Right to Redress and seek final judgment in this controversy as a matter of law.

On 12/10/03 We sent a request for any documents or conference to the N.Y.S. Assessment Receivables demanding any documents in the system of records which would demonstrate "that the undersigned is a party to any social compact or contract which can be demonstrated to operate to confer any contractual, controlling, insurable, lawful, legal, pecuniary, regulatory, or any other interest in the being and/or property of the undersigned to the benefit of the US or USA or state, inclusive of it's aforementioned affiliates, agencies, agents, assignees, creditors, employees, franchisees, representatives, and servants, etc."

On 1/22/04 We sent a request for any documents or conference to Sean O'Connor in the Audit Division (from whom we have received threatening letters) which would demonstrate "that the undersigned is a party to any social compact or contract which can be demonstrated to operate to confer any contractual, controlling, insurable, lawful, legal, pecuniary, regulatory, or any other interest in the being and/or property of the undersigned to the benefit of the US or USA or state, inclusive of it's aforementioned affiliates, agencies, agents, assignees, creditors, employees, franchisees, representatives, and servants, etc."

To date, we have not received any **relevant response** from anyone regarding Our letters, and by your inactions you have injured and placed Us in a desperate situation as you move to collect a created debt that We are not liable for and do not owe, therefore;

## **YOU ARE IN DEFAULT.**

IN GOOD FAITH, We are giving the N.Y.S. Department of Taxation and Finance 10 (TEN) days to cure the default or we will reduce this controversy to **final default judgment against the NYSDTF for want of a plea.**

Due to the seriousness of your default in this matter, please arrange for your **reply in this matter to be delivered to Us within 10 (TEN) days of your receipt of this letter.**

You have in bad faith denied our right to due process by default upon your ministerial duty to answer correspondence in our attempt to show that the N.Y.S. Dept. of Taxation is in error on this matter. We have attempted to secure evidence that the N.Y.S. Dept. of Taxation has subject matter or rem jurisdiction in this matter, and cannot find any such lawful evidence.

## **COMMON LAW OF THE LAND**

In The Case of the Tailors, Coke wrote again that at the common law, no man could be prohibited from working in any lawful trade, for the law abhors idleness, the mother of all evil . . . especially in young men, who ought in their youth, (which is their seed time) to learn lawful sciences and trades, which are profitable to the commonwealth, and whereof they might reap the fruit in their old age, for idle in youth, poor in age; and therefore the common law abhors all monopolies, which prohibit any from working in any lawful trade. 77 Eng. Rep. 1218 [1615], at 1218.

"...the one great principle conferred upon the citizens of the United States, to wit, the right to pursue any lawful business or vocation in any manner not inconsistent with the equal rights of others which may increase their prosperity or develop their faculties so as to give them the highest enjoyment, ..." *May v. People*, 27 P. 1010, at 1012 Colorado 1891

"The individual, unlike the corporation, cannot be taxed for the mere privilege of existing. The corporation is an artificial entity which owes its existence and charter powers to the state; but the individuals' Right to live and own property are natural rights for the enjoyment of which an excise cannot be imposed." *Corn v. Fort*, 95 S.W.2d 620 (1936)

"Also it is incumbent upon the party who infringes upon this right to supply the burden of proof in it's defense", *Busey v. District of Columbia*, 78 AppDC 189. See, also *Sherar v. Cullen*, 481 F 945.

*Wynehamer v. People*, 13 N.Y. 378 (1856), quoting " *Taylor v. Porter* (4 Hill, 145), said: "The words 'law of the land,' as here used, do not mean a statute passed for the purpose of working the wrong. That construction would render the restriction absolutely nugatory, and turn this part of the constitution into mere nonsense." And again: "The meaning of the section, then, seems to be, that no member of the state shall be disfranchised of any of his rights and privileges, unless the

matter be adjudged against him upon trial had according to the course of the common law. It must be ascertained judicially that he has forfeited his privileges, or that some one else has a superior title to the property he possesses, before either of them can be taken from him. It cannot be done by mere legislation." Again he adds, speaking of the words "due process of law:" "If the legislature can take the property of A, and give it to B, they can take A himself and either shut him up in prison, or put him to death. But none of these things can be done by mere legislation."

**"If a question is raised regarding the recognition of a taxpayers right to due process of law, the issue should be resolved before proceeding with collection. Violation of a taxpayers clearly established CONSTITUTIONAL RIGHTS could expose a collector (N.Y.S. Agent) to PERSONAL LIABILITY".** *Davis v. Scherer*, 468 US 183, 1984

**"The law requires proof of jurisdiction to appear on the record of the administrative agency and all administrative proceedings."** *Hagans v. Lavine* 415 US 533

**"Sovereignty itself is, of course, not subject to law, for it is the author and source of law; but in our system, while sovereign powers are delegated to the agencies of government, sovereignty itself remains with the people, by whom and for whom all government exists and acts. And the law is the definition and limitation of power. For, the very idea that man may be compelled to hold his life, or the means of living, or any material right essential to the enjoyment of life, at the mere will of another, seems to be intolerable in any country where freedom prevails, as being the essence of slavery itself."** *Yick Wo v Hopkins*, 118 US 356, 370

### **DEMAND for PLAIN, SPEEDY, ADEQUATE REMEDY AT LAW**

**We demand that the N.Y.S. Dept. of Taxation immediately respond to this default by:**

1. N.Y.S. Dept. of Taxation correcting any errors in law of any of its records, Our letters or this complaint.
2. Response to the aforementioned letter for specific documents showing a lawful interest in Our being or property (subject matter and rem jurisdiction).
3. Photocopy of any case which has overturned *Yick Wo v Hopkins*, and any notorious law which would work specifically upon Anthony L. Montone and Nicole H. Montone to make "subject" to the Federal IRC or it's regulations and Chapter 60 of the N.Y.S. Consolidated law (personal jurisdiction), AND,
4. Photocopy of any "legislative session law" which by clear and express language abrogates the common law right to earn a living, obtain, control and enjoy property without infringement of such right. AND,
5. This also constitutes a demand for the return of all property taken without jurisdiction and authority of real law upon final default, for which such property or right to property record exists.



Failure to provide a relevant response to this complaint within 10 (TEN) days after Certified Mail date receipt of this letter by ministerial duty, will constitute a default and judgment in favor of Anthony L. Montone and Nicole H. Montone against the N.Y.S. Dept. of Taxation and Finance and;

Will be tacit agreement that Anthony L. Montone and Nicole H. Montone are not liable nor have a duty by subjective law for any N.Y.S. created alleged debt assessment and bill, which is in error, void and is not enforceable.

Failure to respond will latch and bar any assertion of any lawful evidence of personal, subject matter or rem jurisdiction of the alleged debt at a later time. The law of latches and bars will apply to any judicial proceedings civil or criminal. We insist on our right to be left alone.

### AFFIDAVIT

State of New York        }  
                                  } ss: Anthony L. Montone  
County of Monroe        }       Nicole H. Montone

I, Anthony L. Montone and I, Nicole H. Montone, (recognized as one through Our Creator God by Holy Marriage), Sui Juris, hereafter We, and competent to testify by first hand knowledge do hereby affirm that:

We live at 258 Princeton Road, Webster, New York and are New York Citizens.

We have never knowingly or intentionally represented ourselves as "ANTHONY L MONTONE and NICOLE H MONTONE" and to our knowledge it is impossible to form a signature in all caps.

We are not officers, employees, or elected officials of any government, Indians or mariners, nor have a trade or business effectively coupled to the US or N.Y.S.

We are not aware of having received any estate or gift income, nor income from any US source or N.Y.S.

We have endeavored over the past ten months to correct the N.Y.S. Dept. of Taxation record or determine a true and lawful duty or liability for this alleged debt and have been hampered by lack of personal correspondence denying Our rights to due process.

On or about 12/10/03 and again on 1/22/04 We sent a Certified Mail request for documents in a last attempt to see if there was any possible record of a real

lawful debt that we could be liable for by some unknown thread of liability or duty.

Having exhausted our avenues to seek to correct any misinformation the N.Y.S. Dept. of Taxation has about our alleged duty or liability, their defaults shows no lawful duty or liability for their created and alleged debt.

We do not owe the IRS, US Treasury, N.Y.S. Assessment Receivables, N.Y.S. Dept. of Taxation and Finance or any other government entity any debt, nor property, or rights to property.

In good faith We have tried to show the N.Y.S. Dept. of Taxation that we do not owe a debt or duty to any government entity, and We are not liable for the debt N.Y.S. has created.

We are the Creators of Government and stand Superior in relationship to the US or USA or N.Y.S. and know this by virtue of Yick Wo v Hopkins.

As Creators, We have a lawful right to discipline or destroy Our creation, but prefer to control Our public servants by good faith application in law and order to preserve Our society.

We are not therefore "subject" to the IRS code or to Congress or to the N.Y.S. codes.

We can find no justification for the alleged debt; the N.Y.S. Dept. of Taxation has informed Us of its intentions to collect a debt not owed, and therefore We view this action as a fraudulent attempt to force a signature upon a financial instrument under threat, duress and coercion to save our property and rights to property in this matter.

We have endured constant intentional injury at the hands of the N.Y.S. Dept. of Taxation now trying to proceed to collect a debt that We have never agreed nor contracted to pay, nor can find any justification in the law that We should be liable for such alleged debt.

We know that slavery was outlawed many years ago, however we feel that organized elements of our society are attempting to enslave us without the law and by color of law.

Further, We are quite aware that bad things happen to property and rights to property of People who do not pay what and when they are told to pay by the N.Y.S. Dept. of Taxation as an organized artificial entity controlled by a mob of officers and employees.

**We are therefore finding the N.Y.S. Dept. of Taxation and Finance in default. We are forced by N.Y.S., to bring this matter to final judgment upon this controversy by law, for want of plea.**

Further affiant saith naught.

We, Anthony L. Montone and Nicole H. Montone, knowing the penalty of bearing false witness, hereby affirm the foregoing to be true and correct to the best of our knowledge and belief and do affix our signature in testimony of the foregoing.

**EXECUTED THIS** 15<sup>TH</sup> day of March 2004.

Anthony Montone  
Anthony L. Montone

Nicole Montone  
Nicole H. Montone

Anthony Montone  
Anthony L. Montone- executed before Notary  
Sui Juris

On this 15<sup>th</sup> day of March 2004, the signatory, Anthony L. Montone Sui Juris, personally appeared before me and is known to me and did affix his signature to this document. In witness thereof I set my hand and seal:

Notary Public in and for the State of New York  
Residing at 463 Fellows Rd Fairport NY 14450  
My commission expires: 9/29/07

Gloria DelVecchio  
GLORIA DELVECCHIO  
Notary Public, State of New York  
Monroe County Reg. #01DE6099564  
Commission Expires 09/29 07

Enclosed: Copy of 1<sup>st</sup> page Letter DTF-962F

DOCUMENT NUMBER: 61417721

DATE: 01/12/04

ASSESSMENT ID: L-023224644-3

TOTAL AMOUNT DUE: \$691.65

PAYMENT DUE DATE: 02/02/04

**NOTICE OF DEFICIENCY**

MONTONE-ANTHONY L  
HAY-NICOLE A  
258 PRINCETON RD  
WEBSTER, NY 14580-1469

*COPY*

TAXPAYER ID: P-12-9520225-8

SPOUSE ID: P-07-4747863-6

TAX TYPE: Personal Income

TAX ARTICLE: 22

AUDIT ID: X380434184

FUNCTION CODE: CNW

TAXPAYER'S COMPLETE LEGAL NAME

MONTONE-ANTHONY L

EXPLANATION AND INSTRUCTIONS

An additional amount is due for the Tax Type indicated above. The original notice sent to you on 11/17/03 showed the detailed computation of the additional amount due. Please refer to the COMPUTATION SUMMARY SECTION for a computation of the current balance due. Recent adjustments, credits or payments may not be reflected in the current balance due.

Please refer to the enclosed Payment Document for payment information, whether you AGREE or DISAGREE with this NOTICE OF DEFICIENCY.

IF YOU AGREE with the amount due, sign the Consent To Findings Section and complete the Payment Application Section. If you cannot send the total amount due, a partial payment will reduce the basis on which additional penalty and/or interest is computed. You will receive a bill for the remaining balance due.

IF YOU AGREE with some of the adjustments, a partial payment will reduce the basis on which additional penalty and/or interest is computed. Complete the Payment Application Section for the amount you agree is due. Refer to the enclosed Notice of Taxpayer Rights to determine your options.

IF YOU DISAGREE with the amount due, refer to the enclosed Notice of Taxpayer Rights to determine your options.

- To request a Conciliation Conference, complete the enclosed Request for Conciliation Conference (items 1 through 8) and return it in the envelope provided.
- To request a Petition for a Tax Appeals Hearing, form TA-10, follow the instructions on the enclosed Notice of Taxpayer Rights.
- Attach a photocopy of all pages of this notice to the Request for Conciliation Conference.

IF YOU DISAGREE because the amount due was already paid, complete the Payment Application Section and attach a photocopy of the front and back of your canceled check or money order (not the money order receipt).

(CONTINUED ON BACK)



## Track & Confirm

### Current Status

You entered 7003 2260 0003 3904 3532

Your item was delivered at 7:23 am on March 17, 2004 in ALBANY, NY 12227.

### Track & Confirm

Enter label number:

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### Notification Options

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U.S. Postal Service™ CERTIFIED MAIL™ RECEIPT (Domestic Mail Only; No Insurance Coverage Provided)		
For delivery information visit our website at <a href="http://www.usps.com">www.usps.com</a>		
ALBANY, NY 12227		
Postage	\$ 0.60	UNIT ID: 0564
Certified Fee	2.30	
Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		
Total Postage & Fees	\$ 2.90	
Sent To <b>NYS DEPT. OF TAXATION</b> <b>ATT. OFFICE OF COUNSEL</b> Street, Apt. No., or PO Box No. <b>BUILDING 9, W.A. HARRIMAN CAMPUS</b> City, State, ZIP+4 <b>ALBANY, NY 12227</b>		
PS Form 3800, June 2002		See Reverse for Instructions



## Track & Confirm

### Current Status

You entered 7003 2260 0003 3904 3631

Your item arrived at 9:40 am on March 17, 2004 in NEW YORK, NY 10001. Information, if available, is updated every evening. Please check again later.

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700322600003390436

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For delivery information visit our website at [www.usps.com](http://www.usps.com)

NEW YORK, NY 10087		UNIT ID: 0564
Postage	\$ 0.60	Postmark Here
Certified Fee	2.30	
Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		Clerk: KC580J
Total Postage & Fees	\$ 2.90	03/15/04

Sent To	NYS ASSESSMENT RECEIVABLES
Street, Apt. No., or PO Box No.	GENERAL POST OFFICE P.O. BOX 26823
City, State, Zip+4	NEW YORK NY 10087-6823

PS Form 3800, June 2002 See Reverse for Instructions



## Track & Confirm

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CERTIFIED MAIL™ RECEIPT		
(Domestic Mail Only; No Insurance Coverage Provided)		
For delivery information visit our website at <a href="http://www.usps.com">www.usps.com</a>		
ALBANY, NY 12227		
Postage	\$ 0.60	UNIT ID: 0564 Postmark Here Clerk: KC560J 03/15/04
Certified Fee	2.30	
Return Receipt Fee (Endorsement Required)	1.75	
Restricted Delivery Fee (Endorsement Required)		
Total Postage & Fees	\$ 4.65	
Sent To NYS DEPT OF TAXATION @ OF SEAN O'CONNOR Street, Apt. No., or PO Box No. AUDIT DIVISION, W.A. HARRIMAN CAMPUS City, State, ZIP+4 ALBANY, NY 12227-0001		
PS Form 3800, June 2002 See Reverse for Instructions		

EXHIBIT I

# Apostille

(Convention de La Haye du 5 Octobre 1961)

1. Country: United States of America
- This public document
2. has been signed by **Lawrence A. Staub, Jr.**
3. acting in the capacity of **Acting County Clerk**
4. bears the seal/stamp of the county of **Monroe**

Certified

5. At Albany, New York
6. the 29th day of March 2004
7. by Special Deputy Secretary of State, State of New York
8. No. A-119669E
9. Seal/Stamp
10. Signature

*Howard J Carr*

---

Howard J. Carr  
Special Deputy Secretary of State



**ASSEVERATION AND DECLARATION OF STATUS**

The State of New York }

} ss: Anthony L. Montone  
Nicole H. Montone

The County of Monroe }

We, Anthony L. Montone and Nicole H. Montone (recognized as one by God through Holy Marriage); competent to testify, by first hand knowledge, to the facts contained herein, do Lawfully Declare and Affirm:

"We are natural born, free Caucasian Sui Juris, de jure New York CITIZENS," New York Citizens, and American Citizens by birth. Anthony is of Father's name and Mother's name. Nicole is of mans name through Holy Marriage. Father and Mother of both are naturally born in the Republic of New York, of Caucasian decent and free Citizens, as were Our progeny. We are sojourning in New York State; a transient to State of New York, created and endowed by our God (Creator) with UNALIENABLE RIGHTS enumerated in the Constitutions of the United States and New York State and affirmed in the Declaration of Independence. Our jurisdiction is Our Sovereign Domain and Our Flag is the American Flag of Peace.

We have never knowingly, willfully, or intentionally waived any of these unalienable rights and We freely choose to obey all Constitutional American Law and Pay all Lawful taxes in jurisdictions applicable to Us for the common good. We stand together, with Assistance, Sui Juris with Judicial Power, and non assumpsit to any defacto state. We are not a member of the body corporate or politic. Our Status of Citizen (Article 2:1:5, 1:2:3, 4:2:1 and 3:2:1 US Constitution), and Our Unalienable Rights are not negotiable.

We, creations only of God (Creator), free agents, being a slave or peon to none, have never knowingly, willfully, intentionally, or voluntarily given Our power of attorney, appointment or agency to any other party, be it government, a person, organization, or any other entity. Many acts or forms bearing Our individual signatures are shrewd entrapments, that We have unwittingly endorsed or entered into by shrewd entrapment or fraud. We hereby REVOKE, release, cancel, Nunc Pro Tunc, (including but not all inclusive), all registrations, licenses, certificates, appointments, any implied contracts or adhesions entered into by any provision of "color (counterfeit) of law," without specific Notice of Intent from government, or by shrewd entrapment of commercial enterprise now or in the future and consider all such signatures or adhesions null and void. This is at law LAWFUL NOTICE, that all such signatures of Ours in the future with all such government, banks or otherwise adhesioned sources, are to be under "TDC" (threat, duress and/or coercion), and non-assumpsit, whether appearing therewith or otherwise. Nor will We be compelled to perform under any contract or agreement that We have not

entered into Knowingly, Voluntarily, and Intentionally, and that We do not or will not accept the liability associated with the compelled benefit of any unrevealed commercial agreement. We claim all property rights, including those held jointly with the people, including the 'right to use,' of dedicated properties and public property.

Recent studies have convinced Us that U.S. and New York Governments have, by shrewd legal entrapment, deception, color of law and Constructive Fraud, deceived Citizens into waiving rights and privileges granted them by God and affirmed by the organic documents known as the Constitutions, and place them under de facto or foreign JURISDICTION/AUTHORITY, in order to place them in a position of voluntary and involuntary peonage and enslavement. With this knowledge, We believe that We are NOT SUBJECT to the territorial-limited "Exclusive Legislation" and its foreign jurisdiction mandated for Washington, D.C. (Article 1:8:17-18 US Constitution), including its foreign "internal" government organizations therein or by contract adhesion thereto intertwined throughout our land, including STATE(s). We therefore lawfully "squarely challenge" the fraudulent JURISDICTION/AUTHORITY, that does not apply to Us (Hagans vs. Lavine, 415 US 528 at 533) with "The Supreme Law of the Land" upholding Us as Sovereign Citizens in accordance with Yick Wo v. Hopkins. It is therefore incumbent upon any government personnel, agency or organization, to first prove its jurisdiction over Us [US Code, Title 5, 556(d)]. Persons violating jurisdiction shall be charged under Title 18 US Criminal Codes 241, 242, 1001, and/or other applicable code, for their high standard and knowledge of the law and perjury of oaths.

It appears by law, that We as Citizens, by status of Citizenship is as Foreign as a Non-resident Alien to the District of Columbia's Federal Government (US Const. Art. 1:8:17-18) and STATE(s) as likewise to Russia. We declare that We have never resided in the District of Columbia, or STATE(s) that We are not a "resident", nor a "person" (artificial persons), equal or subject under the law with corporations or politicians, insidiously created by governments to usurp, dominate, and confuse people, as created by the 13<sup>th</sup> and 14<sup>th</sup> amendment to the Constitution.

That We are Sovereign, as the people, over the instruments of our creation, namely our limited governments, created for the protection of natural rights and liberties, Constitution of the State of New York Article 1 §14 as approved by vote of the People, and our Organic and supreme Law, and respect only Our God (Creator) as Sovereign to Us and in Whom We trust. The governments, having incorporated, have laid down their Sovereignty to become persons equal under the law with other artificial persons, by tyrannical military police power (martial law rule), using unauthorized War Powers and perpetrating mixed war with color of authority, in total defiance of our unalienable, God given rights.

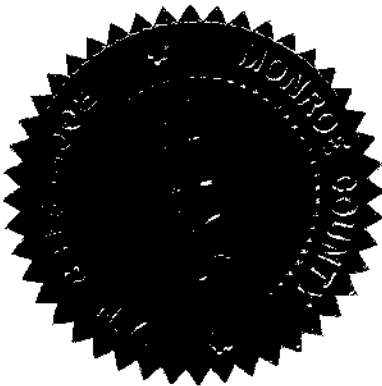
That We have read, studied and understand The Constitution of the United States and of New York State and of the former do hereby promise to protect and defend from all enemies, both foreign and domestic by serving Our country when duty calls, and of the

**STATE OF NEW YORK  
COUNTY OF MONROE  
OFFICE OF THE COUNTY CLERK**

I, LAWRENCE A. STAUB, JR., acting Clerk of the County of Monroe, of the County Court of said county, and of the Supreme Court, both being Courts of Record, having a common seal, DO CERTIFY, that

Before whom the annexed Oath, Affidavit, Acknowledgement purports to have been made or taken, and certified by her/him, was at the time of the making or taking thereof a NOTARY PUBLIC, in and for said State, and was duly authorized to take the same, and was authorized by the laws of this State; and I am well acquainted with his/her handwriting and verily believe his/her signature thereto is genuine and that such officer is not required by law to have a seal nor is he/she required to have a specimen impression thereof filed or deposited in this office, or recorded, filed or deposited in any other place.

In Witness Whereof, I have hereunto set my hand and the official seal of said Courts this 22 day of MARCH 20 04.



Lawrence A. Staub, Jr.

Lawrence A. Staub, Jr.

Lawrence A. Staub, Jr.  
Acting County Clerk

A No.

**00037521**

latter have similar duty as an extension of the former. That as members of the community of the Sovereign Republic, State of New York, We are Electors therein and members for the Militia charged with the responsibility and duty to bear arms in defense of Self, Family, community, State, fellow Americans, and the Constitutions and hold Our solemn responsibilities equal to Our Liberties. We have never taken an oath of attorney or public office.

Our rights, having been given by God (Creator) and declared as unalienable cannot be alienated by Us or from Us without consequence. All who would transgress these rights, including myself, will be held to answer before the Supreme Judge, Our God (Creator).

This Affidavit is at law, public notice of Our status, replacing any previous filings of record. If within 30 days after filing of this document as a public record and notice to all parties in The State of New York, any party has not provided lawful evidence to the contrary of these declarations, on a point by point basis as cited, will be assumed by default that their silence is acquiescence that the affirmations of this document are true, as affirmed by the Citizen(s)

FURTHER THE AFFIANT(S) SAITH NAUGHT,

Subscribed and affirmed in the County of Monroe in the State of New York,  
**EXECUTED THIS 22<sup>nd</sup>** day of March 2004.

Anthony L. Montone  
Anthony L. Montone

Nicole H. Montone  
Nicole H. Montone

Anthony Montone  
Anthony L. Montone- executed before Notary  
Sui Juris

On this 22 day of March 2004, the signatory, Anthony L. Montone, Sui Juris, personally appeared before me and is known to me and did affix his signature to this document. In witness thereof I set my hand and seal:

Notary Public in and for the State of New York  
Residing at: 24 Falstaff Rd Rochester NY  
My commission expires: Alan Michels

ALAN MICHELS  
Notary Public, State of New York  
Reg. No. 01MH6092479  
Qualified in Monroe County  
Commission Expires May 19, 2007

County Clerk CERTIFICATION OF NOTARY SIGNATURE:

Seal }

*Apostille*  
Authentication of Record

Secretary of State  
New York State Department of State }

*Seal:*

ATTACHED - FRONT PAGE